



CITY OF DULUTH PROCEEDINGS OF THE CITY COUNCIL 2008

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, January 3, 2008, 5:07 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0103-02 Ron Anderson communication regarding resolution requesting the state legislature to repeal the restriction on intoxicating liquor licenses in the Lakeside area (07-0772R); and resolution regarding contract with Johnson Controls, Inc., for the installation of an automated meter reading system (AMRS) for water and gas meters (07-0782R). -- Received

08-0103-03 The following communications regarding resolution requesting the state legislature to repeal the restriction on intoxicating liquor licenses in the Lakeside area (07-0772R): (a) Len Bauman; (b) Allisa Braun; (c) Daryl R. Carlson; (d) Martha Dwyer; (e) Ben and Katey Fornear; (f) Eddy Gilmore; (g) Betty Holmen Greene; (h) Steve Greenfield; (i) Andrew Hromatka; (j) Roger, Connie and Mary Joppa; (k) Marie Jordahl; (l) Jack Kuriger; (m) Dennis and Rosemarie Mitchell; (n) Sanna Shields; (o) Randy and Cathy Sylvester; (p) Lynette Swanberg; (q) Tod Venberg. -- Received

REPORTS FROM THE ADMINISTRATION

08-0103-01 Mayor Bergson veto of Resolution 07-0772, requesting the state legislature to repeal the restriction on intoxicating liquor licenses in the Lakeside area. -- Received

RESOLUTION RECONSIDERED

Councilor Stewart moved to reconsider vetoed Resolution 07-0772, requesting that the legislature of the state of Minnesota repeal the restriction on the issuance of intoxicating liquor licenses in that portion of the territory of the city of Duluth formerly incorporated as the city of Lakeside and annexed by the city of Duluth, which motion was seconded and unanimously carried.

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

Danny Jaekel, John McAllister, Bill Elliott, Jean Crassweller and Jerry Ouellette opposed the resolution for the reasons of: the east and west parts of the city are not unequal just because Lakeside does not sell liquor; the 14th Amendment to the US Constitution (equal protection under the law) is not a compelling argument for this; this is not an issue of fear of alcohol sales in Lakeside, but of personal preference; people might be attracted to moving to Duluth when they learn that there is a small area where liquor sales are prohibited; there are plenty of other areas in the city for a new business to open up in and be successful and that young people could be arrested for driving while intoxicated in the Lakeside area.

Paul Christensen supported the resolution for the reasons of: the current prohibition is taking away the opportunity for businesses to be in Lakeside; the Lester Park Golf Course pro estimates that the city would realize approximately \$20,000 in revenue if liquor could be sold there, which could be put back into the golf course; it is ignorant for Lakeside residents to feel they are any safer than other neighborhoods because of this law and the citizens should not have to honor this law because there are several laws that were in effect at the time that are no longer laws.

The council reiterated their concerns from the December 17, 2007, council meeting.

Resolution 07-0772 was adopted as follows:

BY COUNCILORS JOHNSON, STEWART, KRAUSE AND LITTLE:

RESOLVED, that the city council for the city of Duluth requests that the legislature of the state of Minnesota enact special legislation repealing Laws of Minnesota for 1891, Chapter 57, Chapter XII, Section 5, prohibiting the issuance of licenses for the sale of wine or spiritous or malt liquors within the territory of that part of the city of Duluth formally constituting the city of Lakeside and that such bill take the form of Public Document No. 08-0103-04, a copy of which is on file in the office of the city clerk.

Resolution 07-0772 was adopted upon the following vote:

Yeas: Councilors Johnson, Krause, Little, Reinert, Stewart and President Stover -- 6

Nays: Councilors Gilbert, Ness and Stauber -- 3

Approved January 3, 2008, pursuant to Section 12 of the City Charter.

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RESOLUTION TABLED

Councilor Stewart moved to remove Resolution 07-0782, authorizing city officials to contract with Johnson Controls, Inc., for the installation of an automated meter reading system (AMRS) for water and gas meters in the amount of \$9,565,250, by Councilor Johnson, 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.

Carl Strohm reiterated his concerns from the December 17, 2007, council meeting.

To questioning from councilors, Bernie Zylka, measurement services division supervisor, stated that public and commercial meters are surveyed every year and residential meters are surveyed every three to five years and audited by the Minnesota office of pipeline safety

(MNOPS). He stated that, as far as meter readers being close to meters to monitor safety problems as opposed to the AMRS, they now stand two to three feet away from meters and, if it is windy or raining, they would not be able to smell a gas leak anyway. Mr. Zylka clarified that right now, meters are changed every 15 years, so concerns regarding the life of the new meters are not justified.

Councilor Krause expressed concern over the current council dealing with this issue and not waiting for the incoming council to deal with this since they will be responsible for the decision. He also stated that he was not comfortable with the cost of the project.

Resolution 07-0782 was adopted as follows:

BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to contract with Johnson Controls, Inc., for the installation of an automated meter reading system (AMRS) for the public works and utilities department in accordance with specifications and the vendor's quote of \$9,565,250, terms net 30, payable as follows:

- (a) \$3,443,490 from the Water Construction Bond Fund 511, Department/ Agency 500, Object 5532;
- (b) \$3,156,532.50 from the Gas Construction Bond Fund 521, Department/ Agency 500, Object 5532;
- (c) \$2,965,227.50 from the Sewer Construction Bond Fund 531, Department/ Agency 500, Object 5532.

This resolution also authorizes the proper city officials to take steps necessary to secure long term financing.

Resolution 07-0782 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved January 3, 2008

HERB W. BERGSON, Mayor

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MOTIONS AND RESOLUTIONS

The following entitled resolution was read for the first time:

BY COUNCILOR STAUBER

08-0008 - RESOLUTION APPROVING BUSINESS SUBSIDY AGREEMENT BETWEEN DEDA AND THE-JET COMPANY.

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The meeting was adjourned at 6:12 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, January 7, 2008, 6:00 p.m. in the Lake Superior Ballroom, Duluth Entertainment Convention Center, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

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Judge Sweetland administered oaths of office to newly elected councilors Anderson, Cuneo, Fedora, Fosle and Gardner.

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ELECTION OF OFFICERS

Councilor Reinert was elected president upon a unanimous vote.

Councilor Krause was elected vice president upon a unanimous vote.

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MOTIONS AND RESOLUTIONS

BY COUNCILOR STAUBER:

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. 08-0107-01, which allows DEDA to participate during 2008 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 08-0004 was unanimously adopted.

Approved January 7, 2008

DON NESS, Mayor

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BY COUNCILOR FEDORA:

RESOLVED, that the proper city officials are hereby authorized to enter into a license agreement substantially in the form of that on file with the city clerk as Public Document No. 08-0107-02, with the United States Department of the Army, Corps of Engineers to grant the city a temporary easement needed to make repairs to the Duluth Aerial Lift Bridge under City Project No. 0079TR at a cost of \$450, payable from Fund 0411, Department/Agency 035, Object 5520.

Resolution 08-0006 was unanimously adopted.

Approved January 7, 2008

DON NESS, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the second time:

BY COUNCILOR KRAUSE

07-086 - AN ORDINANCE AMENDING SECTIONS 45-103 AND 8-54 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO CONCURRENT USE PERMITS FOR EXPANSION OF ALCOHOLIC BEVERAGE SERVING AREAS.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Councilor Krause moved to table the ordinance and refer it to the planning and parks and recreation commissions for recommendation, which motion was seconded and unanimously carried.

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President Reinert presented plaques to outgoing councilors Johnson, Little, Ness, Stewart and Stover.

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

Mayor Ness presented the 2008 State of the City Address (Public Document No. 08-0107-03.)

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

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 14, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

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The minutes of council meetings held on October 9 and 22, 2007, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0114-01 Seaway Hotel acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance 9822 on March 12, 2007. -- Received

08-0114-02 The following communications regarding proposed ordinance pertaining to concurrent use permits for expansion of alcoholic beverage serving areas (07-086-O): (a) Grand-ma's, Inc.; (b) Steve Townsend; (c) MaryJo Twilight. -- Received

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REPORTS FROM OTHER OFFICERS

08-0114-03 Clerk application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from Rotary Club of Duluth Harbortown, MN, USA on April 16, 2008. -- Received

08-0114-04 Purchasing agent emergency order awarded to Stout Mechanical, Inc., for pipe modification at the West Duluth pumping station in the amount of \$35,300. -- Received

08-0114-05 Workforce development manager report of findings and recommendations of the Duluth workforce strategy task force of December 2007, pursuant to Resolution 07-0049. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

08-0114-06 Commission on disabilities 2007 year end report and vision statement. -- Received

08-0114-07 Duluth airport authority minutes of: (a) October 16; (b) November 8; (c) November 20, 2007, meetings. -- Received

08-0114-08 Duluth human rights commission minutes of November 14, 2007, meeting. -- Received

08-0114-09 Duluth/North Shore Sanitary District minutes of November 14, 2007, meeting. -- Received

08-0114-10 Duluth transit authority: (a) Income statement for September, 2007; (b) Minutes of October 24, 2007, meeting. -- Received

08-0114-11 Entertainment and convention center authority minutes of December 18, 2007, meeting. -- Received

08-0114-12 Planning commission minutes of November 14, 2007, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Jon Donahue expressed frustration that the city councilors would spend the public's money going on a retreat; that the councilors' salaries are not token amounts and if the number of councilors is reduced to five, it will cost more for a councilor with a narrow agenda to get elected.

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KL Lewis spoke on several topics: people are not shoveling their sidewalks; the number of councilors should not be reduced; it looks like the governor will support the Duluth Entertainment Convention Center (DECC) expansion and there is a need to evaluate if the membership of the Duluth economic development authority (DEDA) should be changed to allow for general citizens to serve on the authority along with councilors.

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Lou Hedberg outlined the process he has gone through to license his rental property. He stated he is unable to license the property now because it took so long to upgrade the property before the 300 foot ordinance was passed and expressed his frustration that when working with the building safety office, they should have informed him of this pending ordinance so he could have applied for a rental license before fixing up the property.

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UNFINISHED BUSINESS

BY COUNCILOR STAUBER:

RESOLVED, that, in accordance with the requirements of Minnesota Statutes Section 116J.994, subd. 3(d), the business subsidy agreement between the Duluth economic development authority and the-jet Company, a copy of which is on file in the city clerk as Public Document No. 08-0114-14, is hereby approved.

Resolution 08-0008 was unanimously adopted.

Approved January 14, 2008

DON NESS, Mayor

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MOTIONS AND RESOLUTIONS

The following entitled resolution was read for the first time:

BY PRESIDENT REINERT

08-0049 - RESOLUTION AMENDING RULE 1 OF THE STANDING RULES OF THE CITY COUNCIL PERTAINING TO TIME AND RULE 9 OF THE STANDING RULES OF THE CITY COUNCIL PERTAINING TO INTRODUCTION OF MEASURES.

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

BY COUNCILOR GARDNER:

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. 08-0114-15, with The Valuation Group, Inc., for appraisal services anticipated to be needed during 2008 related to various tax court proceedings in the total amount of not to exceed \$20,000; payable from the General Fund 100-700-1407-5441.

Resolution 08-0005 was unanimously adopted.

Approved January 14, 2008

DON NESS, Mayor

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BY COUNCILOR GARDNER:

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 general obligation tax and aid anticipation certificates of indebtedness of 2008 in the maximum amount of \$18,500,000 (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. 08-0114-16. 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 08-0023 was unanimously adopted.

Approved January 14, 2008

DON NESS, Mayor

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BY COUNCILOR GARDNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-0114-17, with Pro-West and Associates, Inc., for professional services related to the surveying and locating of government and plat corners in those sections specified in said public document in the amount of not to exceed \$89,500, payable as follows:

\$5,000 from the Water Utilities Fund 510-500-1925-5310;

\$5,000 from the Gas Utilities Fund 520-500-1925-5310;

\$5,000 from the Sewer Utilities Fund 530-500-1925-5310;

\$5,000 from the Stormwater Utilities Fund 535-500-1925-5310;

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\$69,500 from Special Projects Fund 210-030-3154.
Resolution 08-0035 was unanimously adopted.
Approved January 14, 2008
DON NESS, Mayor

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BY COUNCILOR GARDNER:

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 2008, 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. 08-0114-18 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 08-0038 was unanimously adopted.
Approved January 14, 2008
DON NESS, Mayor

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BY COUNCILOR KRAUSE:

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:

College of St. Scholastica, 1200 Kenwood Avenue, for February 2, 2008, with Luke Moravec, manager.

Resolution 08-0041 was unanimously adopted.
Approved January 14, 2008
DON NESS, Mayor

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BY COUNCILOR KRAUSE:

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, 2008, subject to departmental approvals and the payment of sales and property taxes:

Applebee's Restaurants North, LLC (Applebee's Neighborhood Bar & Grill), 1600 Miller Trunk Highway, with Karin Stutz, president, and Rebecca Tilden, vice president/secretary/treasurer, transferred from Apple American Limited Partnership (Applebee's Neighborhood Bar & Grill), same address.

Resolution 08-0042 was unanimously adopted.
Approved January 14, 2008
DON NESS, Mayor

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BY COUNCILOR KRAUSE:

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, 2008, and approves issuance of an on sale wine license for the period ending August 31, 2008, subject to departmental approvals, the payment of sales and property taxes and further subject to approval of the liquor control commissioner:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

It's Your Party Catering, LLC (Karma Lounge), 2024 West Superior Street, Suite 210, with Sheila Beleane, owner.

Resolution 08-0043 was unanimously adopted.

Approved January 14, 2008

DON NESS, Mayor

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BY COUNCILOR KRAUSE:

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, 2008, subject to departmental approvals, with any specific restrictions:

Just Take Action, Inc. (Fitger's Brewhouse), 600 East Superior Street, with the condition that no open alcoholic beverages be allowed in the hallways or stairwells.

Resolution 08-0044 was unanimously adopted.

Approved January 14, 2008

DON NESS, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the city of Duluth hereby accepts \$7,000 in settlement of the debt owed by Roger Braun, d/b/a The Trail Blazer, to the revolving loan fund formerly operated by North Star Community Development Corporation, payable into Fund 263, 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. 08-0114-13.

Resolution 08-0022 was unanimously adopted.

Approved January 14, 2008

DON NESS, Mayor

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BY COUNCILOR STAUBER:

The city council of the city of Duluth hereby finds the following:

(a) The Duluth City Council adopted Resolution No. 03-0731 which authorized the Arrowhead Regional Development Commission to act as job opportunity building zone (JOBZ) zone sponsor and administrator and to make program commitments on behalf of the city of Duluth;

(b) The Minnesota department of employment and economic development (DEED) approved the northeast Minnesota regional JOBZ application for 4,031 acres, including 351.12 acres within the city of Duluth;

(c) The Duluth City Council adopted Resolution No. 04-0236 designating those 351.12 acres within the city of Duluth into 11 subzones, including 13.02 acres in the Clyde-Oneota Subzone #101;

(d) A portion of the Subzone #101 site is being developed for non-JOBZ related activities including the Duluth Heritage Sports Center;

(e) The city of Duluth wishes to reallocate 10.17 acres from Subzone #101 and form a new subzone of 10.12 acres (resulting in a net reduction of JOBZ acreage of .05 acres) which will be called the Airport North Business Development Subzone #96.1 and further wishes to provide

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

for the possibility of providing JOBZ benefits to businesses whose expansion or relocation may occur on the 10.12 acre project site;

(f) The JOBZ program created in Minnesota Session Laws 2003, First Special Session, Chapter 21, Article 1, allows for the formation of tax free zones and for subzone boundaries to be amended with the approval of all taxing authorities.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth approves a modification to the Clyde-Oneota Subzone #101 by removing a total of 10.17 acres from said subzone having the following PID numbers:

010-3190-00280	010-3190-00370	010-3190-00620	010-3190-00710
010-3190-00290	010-3190-00380	010-3190-00630	010-3190-00720
010-3190-00300	010-3190-00390	010-3190-00640	010-3190-00730
010-3190-00310	010-3190-00400	010-3190-00650	010-3190-00740
010-3190-00320	010-3190-00410	010-3190-00660	010-3190-00750
010-3190-00330	010-3190-00420	010-3190-00670	010-3190-00760
010-3190-00340	010-3190-00430	010-3190-00680	010-3190-00770
010-3190-00350	010-3190-00440	010-3190-00690	010-3190-01370
010-3190-00360	010-3190-00610	010-3190-00700	

BE IT FURTHER RESOLVED, that the city of Duluth does hereby approve the creation of a new subzone of 10.12 acres called the Airport North Business Development Subzone #96.1 (PID #010-9080-00110), approves the use of tax exemptions and tax credits within said subzone (subject to proper review and approval by the Minnesota department of employment and economic development (DEED) and the other appropriate taxing authorities with the zones) and agrees to provide all of the local tax exemptions and credits required and provided for under the JOBZ legislation and agrees to forego the tax benefits resulting from the same.

Resolution 08-0040 was unanimously adopted.

Approved January 14, 2008

DON NESS, Mayor

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BY COUNCILOR CUNEO:

RESOLVED, that the proper city officials are authorized to pay for membership dues for the year commencing on September 1, 2007, to the League of Minnesota Cities in the amount of \$27,240; payable from Fund 100, Agency 700, Organization 1401, Object 5433.

Resolution 08-0002 was unanimously adopted.

Approved January 14, 2008

DON NESS, Mayor

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BY COUNCILOR FEDORA:

RESOLVED, that the city of Duluth established the initial municipal state aid system of streets by resolution approved October 28, 1957, under provisions of Minnesota Laws 1957, Chapter 943.

It now appears that revisions in the municipal state aid system are necessary.

FURTHER RESOLVED, that portions of the street described as follows be and hereby are designated as a trunk highway turnback route of the city of Duluth, subject to the approval of the commissioner of transportation of the state of Minnesota:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

21st Avenue East from end of bridge to Water Street, (+) 0.22 miles.
Resolution 08-0010 was unanimously adopted.
Approved January 14, 2008
DON NESS, Mayor

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BY COUNCILOR FEDORA:

RESOLVED, that city officials are hereby authorized to contract with Waste Management of Northern Minnesota for garbage/refuse removal and recycling pick-up services at various locations in accordance with city specifications and the vendor's fees as quoted for a total estimated amount of \$70,000, terms net 30, FOB job sites, payable from various funds, departments/agencies, organizations and objects.

Resolution 08-0011 was unanimously adopted.
Approved January 14, 2008
DON NESS, Mayor

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BY COUNCILOR FEDORA:

RESOLVED, that city officials are hereby authorized to contract with Airgas Specialty Products for the purchase and delivery of 40,000 pounds of liquid anhydrous ammonia in accordance with specifications of the vendor's low bid of \$24,400 plus sales tax of \$1,586, for a combined total of \$25,986, terms net 30, FOB destination, payable from the Water Fund 510, Department/Agency 500, Organization 1955, Object 5216.

Resolution 08-0016 was unanimously adopted.
Approved January 14, 2008
DON NESS, Mayor

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BY COUNCILOR FEDORA:

RESOLVED, that city officials are hereby authorized to contract with DPC Industries, Inc., for the purchase and delivery of 55 tons of liquid chlorine in accordance with specifications of the vendor's low bid of \$26,807 plus \$1,742.46, for a combined total of \$28,549.46, terms net 30, FOB destination, payable from the Water Fund 510, Department/Agency 500, Organization 1955, Object 5216.

Resolution 08-0017 was unanimously adopted.
Approved January 14, 2008
DON NESS, Mayor

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BY COUNCILOR FEDORA:

RESOLVED, that city officials are hereby authorized to contract with Hawkins, Inc., d.b.a. Hawkins Water Treatment Group - Superior, for the purchase and delivery of 145 tons of liquid hydrofluorosilicic acid in accordance with specifications of the vendor's low bid of \$78,706 plus sales tax of \$5,115.89 for a combined total of \$83,821.89, terms net 30, FOB destination, payable from the Water Fund 510, Department/Agency 500, Organization 1955 and Object 5216.

Resolution 08-0018 was unanimously adopted.
Approved January 14, 2008
DON NESS, Mayor

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BY COUNCILOR FEDORA:

RESOLVED, that city officials are hereby authorized to contract with Hawkins, Inc., d.b.a. Hawkins Water Treatment Group - Superior, for the purchase and delivery of 100,000 gallons of caustic soda for the utility operations division in accordance with specifications of the vendor's low bid of \$198,900 plus sales tax of \$12,928.50, for a combined total of \$211,828.50, terms net 30, FOB destination, payable from the Water Fund 510, Department/Agency 500, Organization 1955, Object 5216.

Resolution 08-0019 was unanimously adopted.

Approved January 14, 2008

DON NESS, Mayor

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BY COUNCILOR FEDORA:

RESOLVED, that city officials are hereby authorized to contract with C&S Chemicals, Inc., for the purchase and delivery of 150,000 gallons of liquid aluminum sulfate in accordance with specifications of the vendor's low bid of \$127,500 plus sales tax of \$8,287.50, for a combined total of \$135,787.50, terms net 30, FOB destination, payable from the Water Fund 510, Department/Agency 500, Organization 1955, Object 5216.

Resolution 08-0020 was unanimously adopted.

Approved January 14, 2008

DON NESS, Mayor

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BY COUNCILOR FEDORA:

The city council finds:

(a) That the city of Duluth desires to use web-based services to track all permit requirements stipulated in the city's municipal separate storm sewer system (MS4) permit;

(b) That Short Elliot Hendrickson (SEH, Inc.) has submitted a proposal for inputting the city's current MS4 permit into its web-based data base and maintaining, servicing and providing training for this application for calendar year 2008.

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with SEH, Inc., to provide the city with such services for 2008 and that the cost of said services, at a total estimated cost of \$8,495, will be paid from Stormwater Fund 0535, Department 0500, Organization 1930-2330, Object 5201.

Resolution 08-0037 was unanimously adopted.

Approved January 14, 2008

DON NESS, Mayor

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BY COUNCILOR ANDERSON:

RESOLVED, that the proper city officials are authorized to execute an amendment to state of Minnesota Grant Agreement 2006-CC-00396/9300-2178, a copy of which is on file in the office of the city clerk as Public Document No. 08-0114-19, said amendment extending the expiration date to June 30, 2008.

Resolution 08-0003 was unanimously adopted.

Approved January 14, 2008

DON NESS, Mayor

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BY COUNCILOR ANDERSON:

RESOLVED, that city officials are hereby authorized to contract with Nielson Communications, Inc., for the purchase and delivery of ten Kenwood mobile radios and related radio system equipment for the city of Duluth radio communications in accordance with specifications and its low bid of \$41,816.55 (Bid #07-0634) plus \$3,015.95 (Bid #07-0667) plus sales tax of \$2,914.11 plus shipping of \$125 for a total of \$47,871.61, terms net 30, FOB destination, payable as follows:

- (a) \$44,659.63 from the Capital Equipment Fund 250, Department/Agency 015, Organization 2007, Object 5580, Project CE250-E705;
- (b) \$3,211.98 from the Duluth Police Grant Programs Fund 215, Department/Agency 200, Organization 2276, Object 5580.

Resolution 08-0012 was unanimously adopted.

Approved January 14, 2008

DON NESS, Mayor

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BY COUNCILOR ANDERSON:

RESOLVED, that city officials are hereby authorized to contract with Streicher's, Inc., for the purchase and delivery of ammunition in year 2008 for the police department in accordance with state of Minnesota Contract #437904, Release #A-191(5), specifications and pricing in the amount of \$31,625.38 plus sales tax of \$2,055.65 for a total of \$33,681.03, terms net 30, FOB destination, payable from the General Fund 100, Department/Agency 200, Organization 1620, Object 5217.

Resolution 08-0033 was unanimously adopted.

Approved January 14, 2008

DON NESS, Mayor

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BY PRESIDENT 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. 08-0114-20, 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, 2008, through December 31, 2008, for an amount not to exceed \$263,082 (combined federal, NSIP [formerly known at USDA] and state funds).

RESOLVED FURTHER, that monies collected under said contract shall be deposited in Federal Program Fund 272, Agency 031, revenue sources 4214, 4215 and 4241.

Resolution 08-0015 was unanimously adopted.

Approved January 14, 2008

DON NESS, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-0114-21 with the Marshall School and the Duluth Library Foundation to use school facilities for the One Book, One

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Community event on March 19, 2008, in the amount of not to exceed \$200, payable by the foundation.

Resolution 08-0036 was unanimously adopted.
Approved January 14, 2008
DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 08-0039, by Councilor Gardner, authorizing an agreement with Historic Union Depot, Inc., in the amount of \$151,807, was introduced for discussion.

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

Ken Buehler thanked the councilors and past administration for their past support of the Depot and all of the programs that are housed there. He reviewed that the support from the city comes from the hotel/motel tax and urged the council to approve the resolution.

Resolution 08-0039 was adopted as follows:

BY COUNCILOR GARDNER:

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. 08-0114-22, with the Historic Union Depot, Inc. (Depot), in an amount not to exceed \$151,807, payable from Fund 258-030-5436-03.

Resolution 08-0039 was unanimously adopted.
Approved January 14, 2008
DON NESS, Mayor

- - -

BY COUNCILOR KRAUSE:

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
American Legion #71	5814 Grand Avenue

Resolution 08-0045 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Krause -- 1

Approved January 14, 2008

DON NESS, Mayor

- - -

Resolution 08-0013, by Councilor Stauber, denying a concurrent use permit to Aces on First for the sidewalk abutting 113 West First Street (Nick Patronas), was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Councilor Stauber moved to table the resolution so that it can be considered along with its companion ordinance at the next council meeting, which motion was seconded and unanimously carried.

- - -

Resolution 08-0014, by Councilor Stauber, denying a concurrent use permit to Mr. D's Bar and Grill, for awnings at 5622 Grand Avenue (Al Terwey), was introduced for discussion.

Councilor Stauber moved to table the resolution so that it can be considered along with its companion ordinance at the next council meeting, which motion was seconded and unanimously carried.

- - -

Resolution 08-0021, by Councilor Stauber, authorizing a second amendment to the 2006 community development block grant program agreement with Neighborhood Housing Services of Duluth (NHS) extending the term of the agreement for six months, was introduced for discussion.

Councilor Krause stated that this project is coming back for an extension which in the end is costing the city money when the organization should be funding their extension.

Resolution 08-0021 was adopted as follows:

BY COUNCILOR STAUBER:

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. 08-0114-23, to the 2006 community development block grant agreement with Neighborhood Housing Services of Duluth (NHS) extending the term of the agreement to June 30, 2008, at no change in project compensation under the terms of the agreement.

Resolution 08-0021 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved January 14, 2008

DON NESS, Mayor

- - -

Resolution 08-0024, by Councilor Stauber, authorizing amendments to the 2006 community development block grant program Northern Communities Land Trust deconstruction-reconstruction project agreement and to the 2006 HOME Northern Communities Land Trust city homes Phase V agreement extending the terms of these agreements, was introduced for discussion.

Councilors Krause and Stauber voiced their concern that this project is coming back for an extension.

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

Sara Hannigan, Northern Communities Land Trust, reviewed that they have had some success lately in marketing and selling homes that have been on the market and have revamped their marketing to successfully market these homes.

Resolution 08-0024 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to enter into amendments, substantially in the form of that on file in the office of the city clerk as Public Document

No. 08-0114-24(a) to the 2006 community development block grant Northern Communities Land Trust deconstruction-reconstruction project agreement and as Public Document No. 08-0114-24(b) to the 2006 Northern Communities Land Trust city homes Phase V agreement, which extends the terms of the agreements to June 30, 2008, with no change in compensation under the agreements.

Resolution 08-0024 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert and President Reinert -- 6

Nays: Councilors Fedora, Krause and Stauber -- 3

Approved January 14, 2008

DON NESS, Mayor

- - -

Resolution 08-0034, by Councilor Stauber, denying a rezoning petition to provide for the reclassification from W-1, Waterfront District, to R-1-c, One- and Two-family Residential District, four lots in Block 39, Hunter & Markells Grassy Point Addition (Lehr/Munger), was introduced for discussion.

Councilor Stauber moved to table the resolution so that it can be considered along with its companion ordinance at the next council meeting, which motion was seconded and unanimously carried.

- - -

Resolution 08-0009, by Councilor Fedora, authorizing the proper city officials to enter into Agreement No. 91950 with the Minnesota department of transportation to provide for payment by the city to the state of the city's share of the associated construction relating to the reconstruction of Miller Trunk Highway (Trunk Highway 53) and adjacent frontage roads and city streets at an estimated cost of \$1,432,971.68, was introduced for discussion.

Councilor Krause stated there are a lot of traffic concerns with this project.

Resolution 08-0009 was adopted as follows:

BY COUNCILOR FEDORA:

The city council finds as follows:

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

(b) Mn/DOT intends to proceed with the reconstruction of Miller Trunk Highway from approximately Trinity Road to approximately Haines Road as outlined in the Miller Trunk Highway implementation plan;

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

RESOLVED, that the proper city officials are hereby authorized to enter into Agreement No. 91950, on file with the office of the city clerk as Public Document No. 08-0114-25, with the Minnesota department of transportation to provide for payment by the city to the state for the city's share of the costs associated with the reconstruction of Miller Trunk Highway, at an estimated amount of \$1,432,971.68, payable from the working Permanent Improvement Fund 0411, Department/Agency 035, Object 5530, and would be reimbursed from the municipal state aid construction account and appropriate utility funds, City Project No. 0391TR, State Aid Project No.

118-030-009 and state project Nos. 118-201-01, 118-178-05, 118-196-03, 118-202-01, 69-606-17 and 6915-129 (TH53-106).

Resolution 08-0009 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved January 14, 2008

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR STAUBER

08-001 - AN ORDINANCE GRANTING TO NICK PATRONAS, DBA ACES ON FIRST, A CONCURRENT USE PERMIT TO OCCUPY, SERVE AND MAINTAIN A COUNTER TO SERVE LIQUOR ON THE SIDEWALK ABUTTING 113 WEST FIRST STREET AND IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH CONCURRENT USE PERMIT.

- - -

BY COUNCILOR STAUBER

08-002 - AN ORDINANCE GRANTING TO AL TERWEY, DBA MR. D'S BAR AND GRILL, A CONCURRENT USE PERMIT FOR FIXED AWNINGS TO PROJECT INTO AND OVER THE RIGHT-OF-WAY OF GRAND AVENUE AND RAMSEY STREET FOR PROPERTY LOCATED AT 5622 GRAND AVENUE.

- - -

BY COUNCILOR STAUBER

08-003 - 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 W-1, WATERFRONT DISTRICT, TO R-1-C, ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT, FOUR LOTS IN BLOCK 39, HUNTER AND MARKELLS GRASSY POINT ADDITION (LEHR/MUNGER).

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The meeting was adjourned at 7:39 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 28, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

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The minutes of council meetings held on November 8 and 13, 2007, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0128-11 Steve Filipovich communication regarding proposed ordinance pertaining to the licensing of rental properties; declaring moratorium (08-011-O). -- Received

08-0128-01 Joan A. Severson communication regarding proposed ordinance pertaining to concurrent use permits for expansion of alcoholic beverage serving areas (07-086-O). -- Received

08-0128-12 The following communications regarding proposed resolution pertaining to determination of alcoholic beverage restrictions in the Lakeside neighborhood (08-0097R): (a) Deb Anderson; (b) Peggy Anderson (2); (c) Evelyn and William Anderson; (d) Mollie and Rick Biggs; (e) Alison Clarke; (f) Adam Guggemos; (g) Becky Hall; (h) Diane Koranda; (i) Joe Koranda; (j) Peter Krause; (k) Gerard E. Lawson (2); (l) Diane and Larry Lehner; (m) Darlene Marshall; (n) Diana Meehan; (o) Jeanne Mendoza; (p) Peggy D. White; (q) Hanni Witzig. -- Received

08-0128-13 The following communications regarding proposed special use permits for Lester Park Clinic (08-0093R, 08-0094R) and Diamond Willow Residential Care Facility (08-0087R, 08-0088R) (A&L Properties): (a) A&L Properties; (b) Matthew J. Beier; (c) Steven Boberg; (d) Alison Clarke; (e) Kim Gilbertson; (f) Nami Liester; (g) Scott Marshall; (h) Nancy S. Nelson; (i) Katie Witzig. -- Received

08-0128-14 The following communications regarding proposed ordinance regarding the reclassification from R-1-b, one- and two-family residential district, to C-5, planned commercial district, of 503-515 West Central Entrance (08-009-O): (a) Robert Griffin; (b) Candy Lee; (c) Forrest Vodden. -- Received

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REPORTS FROM THE ADMINISTRATION

08-0128-02 Mayor Ness order appointing City Council President Roger Reinert as acting mayor in his absence. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

08-0128-03 Civil service board minutes of: (a) February 6; (b) April 3; (c) October 2; (d) November 6; (e) December 13, 2007, meetings. -- Received

08-0128-04 Duluth airport authority balance sheets of: (a) September 30; (b) October 31, 2007. -- Received

08-0128-05 Duluth human rights commission: (a) Minutes of December 12, 2007, meeting; (b) Year end report for 2007. -- Received

08-0128-06 Duluth legacy endowment fund project group minutes of November 27, 2007, meeting. -- Received

08-0128-07 Duluth/North Shore Sanitary District board minutes of December 12, 2007, meeting. -- Received

08-0128-08 Parks and recreation commission minutes of December 12, 2007, meeting. -- Received

08-0128-09 Planning commission minutes of December 11, 2007, meeting. -- Received

08-0128-10 Spirit Mountain recreation area authority minutes of November 15, 2007, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

KL Lewis commented on: the St. Luke's development in Lester Park and the need for a good map to show the area that is being affected and why there is a need for more assisted living units, when there are many already; the good intention of the proposed Duluth Entertainment Convention Center (DECC) expansion to be more environmentally friendly, without increasing the size of the building foot print for parking and that the school district should not take private properties for their planned expansions.

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At this time, 7:06 p.m., the public hearing on the capital improvement bond sale began.

Finance Director Genie Stark reviewed the details of the bond sale and added that the public hearing for this bond sale is required by state statute.

No one else spoke at the hearing and it was declared closed at 7:08 p.m.

- - -

Councilor Stauber moved to suspend the rules to consider ordinances 08-001 and 08-002 at this time, which motion was seconded and unanimously carried.

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

BY COUNCILOR STAUBER

08-001 - AN ORDINANCE GRANTING TO NICK PATRONAS, DBA ACES ON FIRST, A CONCURRENT USE PERMIT TO OCCUPY, SERVE AND MAINTAIN A COUNTER TO SERVE LIQUOR ON THE SIDEWALK ABUTTING 113 WEST FIRST STREET AND IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH CONCURRENT USE PERMIT.

Councilor Stauber moved to table the ordinance, pending the consideration of Ordinance 07-086, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR STAUBER

08-002 - AN ORDINANCE GRANTING TO AL TERWEY, DBA MR. D'S BAR AND GRILL, A CONCURRENT USE PERMIT FOR FIXED AWNINGS TO PROJECT INTO AND OVER THE RIGHT-OF-WAY OF GRAND AVENUE AND RAMSEY STREET FOR PROPERTY LOCATED AT 5622 GRAND AVENUE.

Councilor Stauber moved to table the ordinance, pending the consideration of Ordinance 07-086, which motion was seconded and unanimously carried.

- - -

Councilor Stauber moved to remove Resolution 08-0034, denying a rezoning petition to provide for the reclassification from W-1, Waterfront District, to R-1-c, One- and Two-Family Residential District, four lots in Block 39, Hunter & Markells Grassy Point Addition (Lehr/Munger), from the table, which motion was seconded and unanimously carried.

- - -

Councilor Stauber moved to suspend the rules to consider Ordinance 08-003 at this time, which motion was seconded and unanimously carried.

INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

BY COUNCILOR STAUBER

08-003 (9884) - 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 W-1, WATERFRONT DISTRICT, TO R-1-C, ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT, FOUR LOTS IN BLOCK 39, HUNTER AND MARKELLS GRASSY POINT ADDITION (LEHR/MUNGER).

- - -

Resolution 08-0034 failed upon the following vote (Public Document No. 08-0128-15):

Yeas: Councilor Gardner -- 1

Nays: Councilors Anderson, Cuneo, Fedora, Fosle, Gilbert, Krause, Stauber and President Reinert -- 8

- - -

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

- - -

UNFINISHED BUSINESS

BY PRESIDENT REINERT:

RESOLVED, that Rule 1 of the Standing Rules of the Duluth City Council is amended to read as follows:

Rule 1. TIME OF MEETINGS.

(a) Regular meetings of the council shall be held twice monthly on the second and fourth Mondays of each month at 7:00 p.m.; provided, however, that if any such Monday falls on a legal holiday, the meeting scheduled for that day shall be held the following Tuesday at 7:00 p.m.; and provided, further, that if the fourth Monday in December falls on December 24, the regular meeting set for that day shall be held on December 26 at 7:00 p.m. Special meetings may be held as provided for in the City Charter. The president of the council may cancel any regular meeting of the council by giving notice to each member of the council at least three days prior to the scheduled date of such meeting; provided that at least two regular or special meetings shall be held each month;

(b) Agenda meetings shall be held at 5:00 p.m. on each Thursday preceding a regular meeting of the council unless such agenda meeting falls on a legal holiday, in which case the president shall set another time and date for such agenda meeting and shall give notice of such time and date to each member of the council at least three days prior to such meeting. The council president may cancel or reschedule any agenda meeting by giving notice to each member of the council at least three days prior to the scheduled date of such meeting;

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

BE IT FURTHER RESOLVED, that Rule 9 of the standing rules of the Duluth city council is amended to read as follows:

Rule 9. INTRODUCTION OF RESOLUTIONS AND ORDINANCES.

No second shall be required for the introduction of a resolution or an ordinance. The city administration may propose a resolution or an ordinance to be considered by the council by submitting each such measure to the clerk for inclusion on the city council agenda. A resolution or ordinance proposed by the city administration shall, on the face of it, be identified as "city proposal." Upon request of a councilor, the councilor shall be identified on the ordinance or resolution as a sponsor of a city proposal. Once submitted to the clerk, a city proposal shall remain on the agenda until one of the following occurs:

(a) The administration withdraws it with consent of the presiding officer of the council;

(b) It is removed from the agenda by the council at an agenda session or at a council meeting;

(c) It is removed from the agenda and referred by the council to another body for review, study, or recommendation;

(d) It is duly and finally acted upon by the council.

Resolution 08-0049 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved January 28, 2008

DON NESS, Mayor

- - -

MOTIONS AND RESOLUTIONS

The following entitled resolutions were read for the first time:

BY COUNCILOR STAUBER

08-0066 - RESOLUTION AMENDING THE STANDING RULES OF THE CITY COUNCIL TO DELETE RULE 18 REGARDING BUSINESS SUBSIDY RESOLUTIONS IN ITS ENTIRETY.

Councilor Stauber moved to table the resolution until after the council retreat, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR STAUBER

08-0081 - RESOLUTION AMENDING RULE 14 OF THE STANDING RULE OF THE CITY COUNCIL PERTAINING TO COMMITTEE APPOINTMENTS.

Councilor Stauber moved to table the resolution until after the council retreat, which motion was seconded and unanimously carried.

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

BY COUNCILOR GILBERT:

RESOLVED, that the city is hereby authorized to participate in the joint property tax advisory committee during 2008, including paying for the city's share of the consultant agreement with Jeff Van Wychen at a cost to the city of \$10,750 which shall be payable from the city council's budget, Fund 100, Agency 010, Organization 1101, Object 5319.

Resolution 08-0056 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

- - -

BY COUNCILOR KRAUSE:

RESOLVED, that the proper city officers are hereby authorized to enter into a two year lease agreement for 2008 and 2009 between the city of Duluth and Kegler's, Inc., DBA Incline Station, for the leasing of ten parking spaces in the parking lot immediately west of Sixth Avenue and below First Street for an annual consideration of \$4,200 to be paid from Fund 100-015-1515-5441, said lease agreement filed as Public Document No. 08-0128-16.

Resolution 08-0048 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

- - -

BY COUNCILOR KRAUSE:

RESOLVED, that the proper city officials are hereby authorized to execute the addendum to the administrative services agreement with RTW, Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 08-0128-17, to continue third party administration of the city's self-funded workers' compensation program effective February 1, 2008; payable from Fund 605, Agency 036, Organization 1651, Object 5441.

Resolution 08-0092 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

- - -

BY COUNCILOR GARDNER:

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.

1.06 Lars Fladmark, whose term expires January 1, 2009, has resigned from the board of managers.

Section 2. Findings. It is in the best interests of the municipalities and of the sanitary district that the following persons, who are voters residing in the area of the sanitary district, be nominated for election to the board of managers for the term indicated:

(a) John Bowen, of the town of Duluth, Minnesota, shall complete the unexpired term of Lars Fladmark. Mr. Bowen's term shall commence upon passage of all concurring resolutions by the municipalities and shall expire on the first business day of January 2009;

(b) Dean Korri, of the town of Duluth, Minnesota, whose term shall commence upon passage of all concurring resolutions by the municipalities and shall expire on the first business day of January 2011;

(c) Katherine Kuettel, of the city of Duluth, Minnesota, whose term shall commence upon passage of all concurring resolutions by the municipalities and shall expire on the first business day of January 2011.

Section 3. Election of board of managers. Election of the above-named persons to the board of managers of the sanitary district is approved and such persons are 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 08-0046 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

- - -

BY COUNCILOR GARDNER:

The council finds:

(a) The city is required to submit a pay equity implementation report to the Minnesota department of employee relations by January 31, 2008; and

(b) Such report is required to be approved by the Duluth City Council.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

THEREFORE, BE IT RESOLVED, that the city's pay equity implementation report has been submitted to the city council (Public Document No. 08-0128-18) and the council has received such report.

Resolution 08-0062 was unanimously adopted.
Approved January 28, 2008
DON NESS, Mayor

- - -

BY COUNCILOR GARDNER:

RESOLVED, that the appointment by Mayor Ness of Jon Dacken to the Duluth human rights commission for a term expiring on April 20, 2009, replacing Naomi-Tamar who resigned, is confirmed.

Resolution 08-0065 was unanimously adopted.
Approved January 28, 2008
DON NESS, Mayor

- - -

BY COUNCILOR GARDNER:

RESOLVED, that the reappointment by Mayor Ness to the deferred compensation plan commission of Norma Johnson (confidential unit), for a term expiring on December 31, 2011, is confirmed.

FURTHER RESOLVED, that the appointments by Mayor Ness to the deferred compensation plan commission of Brian Hansen (treasurer), for a term expiring on December 31, 2008, and Gregg McCullough (police unit), for a term expiring on December 31, 2011, replacing Larry Jeneson and Robin Roeser who resigned, are confirmed.

Resolution 08-0078 was unanimously adopted.
Approved January 28, 2008
DON NESS, Mayor

- - -

BY COUNCILOR FEDORA:

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 contract on file in the office of the city clerk as Public Document No. 08-0128-19, with, and accept funds from, St. Louis County to provide Minnesota family investment program, diversionary work program and E-3 innovation program employment and training services in an amount not less than \$952,148.67 for the period January 1, 2008, through December 31, 2008. Monies received under this agreement will be deposited in Fund 268, Agency 031, Organization 6235 (MFIP), 6236 (DWP) and 6228 (E-3).

Resolution 08-0077 was unanimously adopted.
Approved January 28, 2008
DON NESS, Mayor

- - -

BY PRESIDENT REINERT:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file with the city clerk as Public Document No. 08-0128-20, with Fryberger, Buchanan, Smith and Frederick, P.A., under which that firm will provide professional services related to the city's 2008 state legislative program, at a cost to the city not to exceed

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

\$44,940 for the year 2008, and ability for the administration to renew for a second year, which shall be payable from Fund 100-700-1402-5312.

Resolution 08-0054 was unanimously adopted.
Approved January 28, 2008
DON NESS, Mayor

- - -

BY PRESIDENT REINERT:

RESOLVED, that the proper city officials are hereby authorized to execute a major sponsorship agreement with Grandma's Marathon-Duluth, Inc., for the 2008 Grandma's Marathon to be held June 19-21, 2008, which agreement is on file in the office of the city clerk as Public Document No. 08-0128-21, 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 08-0089 was unanimously adopted.
Approved January 28, 2008
DON NESS, Mayor

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BY COUNCILOR FOSLE:

The city council finds:

(a) That the city of Duluth desires field and laboratory testing services and desires to hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems for fiscal years 2008 - 2010;

(b) American Engineering Testing has submitted a fee schedule for field and laboratory testing services in connection with this work.

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with American Engineering Testing to provide the city with such field and laboratory services and that the cost of said field and laboratory services, estimated at a total of \$15,000 for fiscal year 2008, will be paid from the various appropriate funds, departments, agencies and objects.

Resolution 08-0025 was unanimously adopted.
Approved January 28, 2008
DON NESS, Mayor

- - -

BY COUNCILOR FOSLE:

The city council finds:

(a) That the city of Duluth desires field and laboratory testing services and desires to hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems for fiscal years 2008 - 2010;

(b) EPC Engineering and Testing has submitted a fee schedule for field and laboratory testing services in connection with this work.

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with EPC Engineering and Testing to provide the city with such field and laboratory services and that the cost of said field and laboratory services, estimated at a total of \$10,000 for fiscal year 2008, will be paid from the various appropriate funds, departments, agencies and objects.

Resolution 08-0026 was unanimously adopted.
Approved January 28, 2008
DON NESS, Mayor

- - -

BY COUNCILOR FOSLE:

The city council finds:

(a) That the city of Duluth desires field and laboratory testing services and desires to hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems for fiscal years 2008 - 2010;

(b) Twin Ports Testing, Inc., has submitted a fee schedule for field and laboratory testing services in connection with this work.

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Twin Ports Testing, Inc., to provide the city with such field and laboratory services and that the cost of said field and laboratory services, estimated at a total of \$15,000 for fiscal year 2008, will be paid from the various appropriate funds, departments, agencies and objects.

Resolution 08-0027 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

- - -

BY COUNCILOR FOSLE:

The city council finds:

(a) That the city of Duluth desires field and laboratory testing services and desires to hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems for fiscal years 2008 - 2010;

(b) Ayres Associates has submitted a fee schedule for field and laboratory testing services in connection with this work.

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Ayres Associates to provide the city with such field and laboratory services and that the cost of said field and laboratory services, estimated at a total of \$15,000 for fiscal year 2008, will be paid from the various appropriate funds, departments, agencies and objects.

Resolution 08-0028 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR FOSLE:

The city council finds:

(a) That the city of Duluth desires survey and field data collection and desires to hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems for fiscal years 2008 - 2010;

(b) Krech Ojard and Associates has submitted a fee schedule for survey and field data collection services in connection with this work.

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Krech Ojard and Associates to provide the city with such survey and field data collection services and that the cost of said survey and field data collection services, estimated at a total of \$15,000 for fiscal year 2008, will be paid from the various appropriate funds, departments, agencies and objects.

Resolution 08-0029 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR FOSLE:

The city council finds:

(a) That the city of Duluth desires survey and field data collection and desires to hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems for fiscal years 2008 - 2010;

(b) LHB, Inc., has submitted a fee schedule for survey and field data collection services in connection with this work.

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB, Inc., to provide the city with such survey and field data collection services and that the cost of said survey and field data collection services, estimated at a total of \$15,000 for fiscal year 2008, will be paid from the various appropriate funds, departments, agencies and objects.

Resolution 08-0030 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR FOSLE:

The city council finds:

(a) That the city of Duluth desires survey and field data collection and desires to hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems for fiscal years 2008 - 2010;

(b) RLK Kuusisto Ltd. has submitted a fee schedule for survey and field data collection services in connection with this work.

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with RLK Kuusisto Ltd. to provide the city with such survey and field data collection services and that the cost of said survey and field data collection services, estimated at a total of \$15,000 for fiscal year 2008, will be paid from the various appropriate funds, departments, agencies and objects.

Resolution 08-0031 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR FOSLE:

The city council finds:

(a) That the city of Duluth desires survey and field data collection and desires to hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems for fiscal years 2008 - 2010;

(b) SEH, Inc., has submitted a fee schedule for survey and field data collection services in connection with this work.

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with SEH, Inc., to provide the city with such survey and field data collection services and that the cost of said survey and field data collection services, estimated at a total of \$15,000 for fiscal year 2008, will be paid from the various appropriate funds, departments, agencies and objects.

Resolution 08-0032 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR FOSLE:

The city council finds:

(a) That the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the painting and general structural rehabilitation of Bridge No. L6116 over the Duluth Ship Canal on Lake Avenue (MSAS 140), S.A.P. No. 118-140-029;

(b) That the grant has been approved and the amount of the grant has been determined to be \$1,000,000.

RESOLVED, that the city of Duluth does hereby accept said grant and affirms that any construction costs that qualify for Minnesota state transportation funds in excess of the grant will be appropriated from funds available to the city of Duluth, and that any grant monies appropriated for the construction 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 Capital Improvement Fund 0411, Agency 035, Revenue Source 4220-01, City Project No. 0079TR.

Resolution 08-0053 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR FOSLE:

RESOLVED, that city officials are hereby authorized to contract with Rick's Tree and Stump Removal for tree removal services during year 2008, the second year of a five-year contract, for an estimated amount of \$33,000, terms net 30, payable from the General Fund 100, Department/Agency 500, Organization 1920-2560, Object 5454.

Resolution 08-0057 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR FOSLE:

RESOLVED, that city officials are hereby authorized to contract with Vogel Paint and Wax Company, Inc., for the purchase and delivery of 3,025 gallons of yellow and 1,525 gallons of white latex traffic marking paint for the maintenance operations division in accordance with state of Minnesota Contract #435941, Release P-808(5), specifications and pricing in the amount of \$26,037 plus \$1,692.41 sales tax for a combined total of \$27,729.41, terms net 30, FOB destination, payable from General Fund 100, Department/Agency 500, Organization 1920-2570, Object 5226.

Resolution 08-0058 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR FOSLE:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to City Contract No. C-20238 with LHB Engineers and Architects for engineering services required for the replacement of Bridge No. L8476 located on Lincoln Park Drive over Miller Creek. This increase is to include the design engineering phase for the bridge replacement option. This

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

amendment increases the contract in the amount of \$44,327 for a new total of \$49,267, payable from the Permanent Improvement Fund 0411, Department/Agency 035, Object 5530, City Project No. 0622TR, S.P. 118-080-037.

Resolution 08-0061 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR FOSLE:

RESOLVED, that city officials are hereby authorized to contract with Acme Tools for the purchase and delivery of utility and maintenance uniforms as needed during year 2008, the second year of a five-year contract, in accordance with existing specifications, for an estimated amount of \$42,125, terms net 30 FOB destination, payable from various funds, departments/agencies, organizations and objects.

Resolution 08-0063 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR FOSLE:

RESOLVED, that city officials are hereby authorized to contract with Larson Chevrolet-Oldsmobile, Inc., for the purchase and delivery of OEM (original equipment manufacturer) parts and labor for General Motors vehicles as needed during year 2008 for the fleet services division in accordance with existing specifications at an estimated amount of \$30,000, terms net 30, discount 25 percent current price list, FOB destination, payable as follows:

(a) \$25,000 (parts) from the Fleet Services Fund 660, Department/Agency 015, Object 5221; and

(b) \$5,000 (labor) from the Fleet Services Fund 660, Department/Agency 015, Object 5404.

Resolution 08-0068 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR FOSLE:

RESOLVED, that city officials are hereby authorized to contract with Maney International, Inc., for the purchase and delivery of OEM (original equipment manufacturer) for parts, supplies and labor as needed during year 2008 for the fleet services division in accordance with existing specifications at an estimated amount of \$60,000, terms net 30, discount 35 percent current price list, FOB destination, payable as follows:

(a) \$50,000 (parts) from the Fleet Services Fund 660, Department/Agency 015, Object 5221; and

(b) \$10,000 (other) from the Fleet Services Fund 660, Department/Agency 015, Object 5404.

Resolution 08-0069 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR FOSLE:

RESOLVED, that city officials are hereby authorized to contract with NorthStar Ford, LLC, for the purchase and delivery of OEM (original equipment manufacturer) parts and labor as needed during year 2008 for the fleet services division in accordance with existing specifications at an estimated amount of \$40,000, terms net 30, discount 30 percent current price list, FOB destination, payable as follows:

- (a) \$34,000 (parts) from the Fleet Services Fund 660, Department/Agency 015, Object 5221; and
- (b) \$6,000 (labor) from the Fleet Services Fund 660, Department/Agency 015, Object 5404.

Resolution 08-0070 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR FOSLE:

RESOLVED, that city officials are hereby authorized to contract with Pomp's Tire Service, Inc., for the purchase and delivery of vehicle and equipment tires and repairs as needed during year 2008 for the fleet services division in accordance with state of Minnesota Contract #432206, Release T-525(5), specifications and pricing at an estimated amount of \$30,000, terms net 30, FOB destination, payable as follows: \$24,000 from the Fleet Services Fund 660, Department/ Agency 015, Object 5221 and \$6,000 from the Fleet Services Fund 660, Department/ Agency 015, Object 5404.

Resolution 08-0071 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR FOSLE:

RESOLVED, that city officials are hereby authorized to renew Agreement #20458 with Minnesota Power, a division of Allete, Inc., for professional services related to the acquisition, transportation and management of the natural gas supply for the city's gas utility in year 2008 for an amount not to exceed \$63,600, payable the Gas Fund 520, Department/Agency 500, Organization 1960, and Object 5310.

Resolution 08-0072 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR FOSLE:

RESOLVED, that city officials are hereby authorized to contract with St. Joseph Equipment, Inc., for the purchase and delivery of a Case model 621-E wheel loader with options for the fleet services division in accordance with state of Minnesota Contract #436273, Release L-331(5), specifications and pricing in the amount of \$129,287 plus \$8,403.65 sales tax for a combined total amount of \$137,690.65, terms net 30, FOB destination, payable from the Capital Equipment Fund 250, Department/Agency 015, Organization 2007, Object 5580, Project CE250-V807.

Resolution 08-0073 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR FOSLE:

RESOLVED, that city officials are hereby authorized to contract with Car Truck City for the purchase and delivery of two 2008 Chevrolet Silverado 3500 one-ton 4x4 standard cab pickup trucks in accordance with state of Minnesota Contract #438678, Release T-642(5), specifications and pricing in the amount of \$41,358.56 plus \$2,688.31 sales tax plus \$100 Minnesota tax exempt plates and registration for a combined total of \$44,146.87, payable from the Capital Equipment Fund, Department/Agency 015, Organization 2008, Object 5580, Project CE250-V805.

Resolution 08-0074 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR FOSLE:

RESOLVED, that city officials are hereby authorized to renew the existing Contract #20352 with Inter-City Oil Company, Inc., the second year of a five-year contract, for the purchase and delivery of both bulk and service station fuels as needed during year 2008 for an amount not to exceed \$1,200,000, payable from the Fleet Services Fund 660, Department/Agency 015, Object 5212.

Resolution 08-0075 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR FOSLE:

RESOLVED, that the proper city officials are hereby authorized to accept a Section 319-07 nonpoint source management grant, a copy of which is on file in the office of the city clerk as Public Document No. 08-0128-22, from the Minnesota pollution control agency for a residential stormwater reduction demonstration project in the amount of \$167,383, said sum to be deposited in Fund 535-500-900-4210-02 and committing in-kind matching funds from non-city sources.

Resolution 08-0083 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR FOSLE:

The city council finds:

(a) That the city of Duluth desires survey and field data collection, and desires to hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems for fiscal years 2008 - 2010;

(b) Salo Engineering , Inc., has submitted a fee schedule for survey and field data collection services in connection with this work.

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Salo Engineering, Inc., to provide the city with such survey and field data collection services and that the cost of said survey and field data collection services, estimated at a total of \$15,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

for fiscal year 2008, will be paid from the various appropriate funds, departments, agencies and objects.

Resolution 08-0085 was unanimously adopted.
Approved January 28, 2008
DON NESS, Mayor

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BY COUNCILOR CUNEO:

RESOLVED, that the proper city officials are authorized to accept a grant from the state of Minnesota, commissioner of public safety, office of justice programs, in the amount of \$335,000 for the purpose of supporting the operations of the Lake Superior drug and gang task force, and to execute the grant agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-0128-23; grant funds to be deposited in Fund 215, Agency 200, Organization 2260, Revenue Source 4210-02.

Resolution 08-0052 was unanimously adopted.
Approved January 28, 2008
DON NESS, Mayor

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BY COUNCILOR CUNEO:

RESOLVED, that the proper city officers are authorized and directed to enter into an agreement with city of Proctor providing for the housing of animals at the city of Duluth animal shelter. The agreement to be substantially in the form of Public Document No. 08-0128-24 on file in the office of the city clerk. Funds to be deposited in Fund 100, Agency 200, Organization 1610, Revenue Source 4322.

Resolution 08-0076 was unanimously adopted.
Approved January 28, 2008
DON NESS, Mayor

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BY COUNCILOR ANDERSON:

RESOLVED, that city officials are hereby authorized to contract with St. Louis County public health and human services for the purchase and delivery of 48,073 catered meals to seven senior dining locations from January 1 through December 31, 2008, the third year of a five-year contract, for the parks and recreation department at a total cost of \$180,153.02, payable as follows:

- (a) \$130,822.16 from the Senior Nutrition Fund 272, Department/Agency 031, Project No. SD04, Object 5310;
- (b) \$47,830.86 from the Senior Nutrition Fund 272, Department/Agency 031, Project No. SD06, Object 5310;
- (c) \$50.00 from the Senior Nutrition Fund 272, Department/Agency 031, Project No. SD04, Object 5211;
- (d) \$900.00 from the Senior Nutrition Fund 272, Department/Agency 031, Project No. SD04, Object 5219; and
- (e) \$550.00 from the Senior Nutrition Fund 272, Department/Agency 031, Project No. SD06, Object 5219.

Resolution 08-0059 was unanimously adopted.
Approved January 28, 2008
DON NESS, Mayor

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BY COUNCILOR ANDERSON:

RESOLVED, that, subject to the requirements of law, including Laws of Minnesota, 1969, Chapter 577, Section 9, the proper officials are authorized to propose in a grant application to U.S. economic development administration for the Duluth International Airport North Business Development Area (\$1,431,033) that the required local matching funds, up to \$250,000, be provided by a bond secured by pledged Duluth Airport Authority revenues and, if necessary, full faith and credit of city of Duluth and it is the intent of this body that the required local matching funds be so provided should the grant and the project be undertaken.

Resolution 08-0067 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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BY COUNCILOR ANDERSON:

RESOLVED, that the proper city officers are authorized to enter into a lease agreement with Lutheran Social Services of Minnesota for use of the Washington Recreation Center for its program activities for the period February 1, 2008, through December 31, 2008, and thereafter renewed on an annual basis and finally terminating on December 31, 2011, said agreement to be substantially in the form of Public Document No. 08-0128-25 file in the office of the city clerk; rent proceeds to be deposited in Fund 100-015-1515-4622.

Resolution 08-0079 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 08-0082, by Councilor Stauber, amending Resolution 89-0323 establishing the Duluth economic development authority (DEDA) to change the composition of the membership of the authority and to provide for the appointment and removal of DEDA'S executive director by the commissioners subject to city council approval and further subject to veto by the mayor, was introduced.

Councilor Stauber moved to table the resolution until after the council retreat, which motion was seconded and unanimously carried.

- - -

Resolution 08-0055, by Councilor Gilbert, of the city of Duluth, Minnesota, stating the intent to issue an amount not to exceed \$1,600,000 general obligation capital improvement bonds, Series 2008, was introduced for discussion.

Councilors Stauber opposed the resolution for the reason of not supporting incurring future debt versus paying as we go.

Resolution 08-0055 was 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. 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 3, 2007 (the plan).

Section 2. The city council held a public hearing on January 28, 2008, on the city's intention to issue bonds in 2008 in an amount not to exceed \$1,600,000 for the purposes 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. 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 2008 (the bonds), in an amount not to exceed \$1,600,000, for the purpose of providing funds for the acquisition and betterment of the following projects: replacement of the roof on City Hall; fire department facilities repairs and maintenance including driveways, overhead doors, ventilation systems, masonry and window repair, including the remodeling or relocation of the Park Point Firehall, remodeling the Gary New Duluth Firehall, and replacing the roof on the Woodland Firehall; constructing, repairing or improving public works maintenance facilities, including constructing a salt and sand storage facility, security fencing, and site development work; and payment of discount and costs of issuance of the bonds.

Section 4.

A. The city clerk shall publish a notice of intent to issue capital improvement bonds in substantially the form on file as Public Document No. 08-0128-26 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 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 shall not be issued until the question of their issuance 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 08-0055 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Gardner, Gilbert, Krause and President Reinert -- 7

Nays: Councilors Fosle and Stauber -- 2

Approved January 28, 2008

DON NESS, Mayor

- - -

Resolution 08-0047, by Councilor Stauber, denying a concurrent use permit to the Duluth transit authority (DTA) for a bus shelter on Garfield Avenue, was introduced.

Councilor Stauber moved to table the resolution, pending the consideration of the accompanying Ordinance 08-004 at the next council meeting, which motion was seconded and unanimously carried.

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BY COUNCILOR STAUBER:

The city council finds as follows:

(a) A sufficient petition was filed with the city clerk requesting the vacation of a triangular shaped portion of the right-of-way of Manitou Street (alley) and air rights which encompass the existing home and eaves, northwesterly and adjoining the property at 2 Sunnyside Street (FN 07151); and

(b) 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

(c) The planning commission, at its January 8, 2008, regular meeting, did approve, unanimously, vacating the portion of the street as recommended by staff, legally described as follows:

That part of the platted alley lying northwesterly of and adjoining Lot 1, Block 13, Riverside, according to the plat on file in the office of the county recorder, St. Louis County, Minnesota, described as follows: commencing at the southwest corner of said Lot 1, Block 13; thence north 00 degrees 00 minutes 00 seconds east, assumed bearing along the west line of said Lot 1, a distance of 3.96 feet; thence north 39 degrees 42 minutes 08 seconds east 47.70 feet along the northwesterly line of said Lot 1 to the point of beginning of the tract to be described; thence north 00 degrees 03 minutes 21 seconds west 6.10 feet; thence south 89 degrees 56 minutes 12 seconds east 5.10 feet to the northwesterly line of said Lot 1; thence south 39 degrees 42 minutes 08 seconds west 7.98 feet along the northwesterly line of said Lot 1 to the point of beginning.

Together with: an aerial vacation over and above that part of the platted alley lying northwesterly of and adjoining Lot 1, Block 13, Riverside, according to the plat on file in the office of the county recorder, St. Louis County, Minnesota, described as follows: commencing at the southwest corner of said Lot 1, Block 13; thence north 00 degrees 00 minutes 00 seconds east, assumed bearing along the west line of said Lot 1, a distance of 3.96 feet; thence north 39 degrees 42 minutes 08 seconds east 44.57 feet along the northwesterly line of said Lot 1 to the point of beginning of the tract to be described; thence north 00 degrees 03 minutes 21 seconds west 10.56 feet; thence south 89 degrees 56 minutes 12 seconds east 8.77 feet to the northwesterly line of said Lot 1; thence south 39 degrees 42 minutes 08 seconds west 13.71 feet along the northwesterly line of said Lot 1 to the point of beginning.

The bottom plane of the vertical space of said aerial vacation shall be elevation 691.00 (based on NGVD 29 datum); and

(d) The file and report documents a basis for vacating a portion of the easement.

NOW, THEREFORE, BE IT RESOLVED:

(a) That the city council of the city of Duluth approves the vacation of a partial vacation of the Manitou Street (alley) right-of-way, lying northwesterly of and adjoining Lot 1, Block 13, Riverside, and the aerial vacation over and above that part of the Manitou Street (alley) as described in above legal description; and

(b) That a copy of this resolution shall be filed with the recorder of deeds.

Resolution 08-0050 was unanimously adopted.

Approved January 28, 2008

DON NESS, Mayor

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Resolution 08-0051, by Councilor Stauber, denying the vacation of a triangular shaped portion of Manitou Street (alley) at 2 Sunnyside Drive (Waltjer), was introduced.

Resolution 08-0051 failed upon a unanimous vote (Public Document No. 08-0128-27).

- - -

Resolution 08-0084, by Councilor Stauber, denying a rezoning petition to provide for the reclassification from R-1-b, One- and Two-family Residential District, to C-5, Planned Commercial

District, three acres of property on the north side of Central Entrance between Myrtle Street/Anderson Road and Midas Service Center (Andress/CMRA), was introduced.

Councilor Stauber moved to table the resolution, pending the consideration of the accompanying Ordinance 08-009 at the next council meeting, which motion was seconded and unanimously carried.

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Resolutions 08-0087 and 08-0088, approving and denying, respectively, a special use permit to A&L Properties for a residential care facility; and resolutions 08-0093 and 08-0094, approved and denying, respectively, a special use permit to A&L Properties for a 10,000 square foot medical clinic, by Councilor Stauber, were introduced for discussion.

Councilor Stauber moved to suspend the rules to hear speakers on the resolutions, which motion was seconded and unanimously carried.

Mark Pilon noted that: the planning commission approved this project; the planning department staff recommended approval; there has been substantial constructive, productive dialogue after the planning commission meeting to address concerns of the neighbors and the project as it currently stands is substantially less intensive and more buffered from the neighborhood.

Ron Frazen and John Simpson, representing St. Lukes Hospital, noted that: healthcare delivery has changed over the years with more community clinics; many residents in this area of town have requested St. Luke's to bring a clinic closer to them; their clinics pay approximately \$850,000 a year in property taxes and this will be a low impact, neighborhood-friendly and esthetically pleasing development.

Natalie Zeleznikar, representing Keystone Bluffs, a traditional care assisted living facility, and Diamond Willow, an advanced care assisted living facility, noted that: neighborhood services for aging seniors is what the families of the seniors want; forcing them to relocate to other areas of town is not desirable; neighborhood care models like this is what is being done across the country; there is a tremendous demand for this type of care, that otherwise would force individuals into nursing homes; with this type of care, they can have their own furniture and family visiting schedule and these types of businesses do pay property taxes.

Rob Link, A&L Properties, stated: he did this development in response to residents that came to him requesting this type of service in this neighborhood; at this time, the project is about as low impact as they can make it and there have been some very nice changes that will work for both sides of this issue.

Craig Olson, on behalf of the Building Trades Council, noted that this project would have a definite economic impact and that this a privately funded project.

Connie Slyvester, John Thomas, Patricia Thomas, Kathy Winkler, Leah Westrup, and Clifford Alexander opposed the development or suggested changes for the reasons of: for approval of the two special use permits, the council must find that the project does not result in a random pattern of development; there are no other schools, churches or businesses there, just private homes; real estate agents state that values will go down; the comprehensive plan suggested this land to be a sensitive land overlay; it is not known if the required conditions of a special use permit of: contiguity with the neighborhood, no physical impact on the neighborhood and no environmental impact on the neighborhood have been met; if this is going to happen, the project should be moved 100 feet closer to the golf course; this land should be preserved to protect connectivity between high value eco systems; this is in direct opposition to conservation and protection policy Nos. 6 and 7 of the comprehensive plan; destroying this city forest will have

a negative environmental impact; this development will strain existing sewage overflows: wildlife habitat will be lost; a needs assessment should be required; special use permits are broken promises to those who build in a residentially zoned neighborhood; there is no public benefit to justify such a drastic rezoning; there are other areas that are more suitable for this project; this large impervious project will have a negative affect on pervious areas; the area is too small for the intended use from a planning standpoint; the clinic is 25 feet from the nearest neighbor's property line and this development will be on two sides of a residential property.

Councilor Fedora stated that he would not be participating in any discussion on these issues and that he would be abstaining on all votes.

Councilor Stauber moved to table the resolutions for a committee meeting, which motion was seconded and carried upon the following vote:

Yeas: Anderson, Cuneo, Fosle, Gardner, Krause, Stauber and President Reinert -- 7

Nays: Councilor Gilbert -- 1

Abstention: Councilor Fedora -- 1

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Resolution 08-0097, by Councilor Fedora and President Reinert, pertaining to determination of alcoholic beverage restrictions in the Lakeside neighborhood, was introduced for discussion.

Councilor Fedora moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

K. Laurion, Danny Jaekel, Jeanne Mendoza, Peggy White, Gerry Ouellette, John McAllister and Tim Allen either opposed liquor sales in this area or supported the resolution for the reasons of: liquor in this area tears down this neighborhood; the economic benefits of liquor in this area is not something that is wanted or needed; letting the current residents vote is the proper way to do it; having other parts of the city vote on this does not affect the other parts of the city; local laws are made for a particular reason; the spirit of the state law was to insure that city leaders would not go back on their promise; if this debate had originated from a neighborhood groundswell, it would be different; if the majority of residents in this area favor liquor sales, then the majority should be supported; this is not of a concern to residents from other parts of the city; the covenant was made with only residents of this area and the city and there is no validity for a citywide vote.

Russell Stewart supported having this on a citywide referendum because: it would answer what precincts 1-4 wants and it identifies what other districts feel about this; by not doing it citywide, it perpetuates the east-west split; issues should be treated citywide, not differently in certain neighborhoods and it would not cost substantially more to have this as a citywide question.

Some district councilors stated that they would not support other areas of the city voting on an issue which dealt strictly with their district.

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

"BE IT FURTHER RESOLVED, that Resolution 07-0772 is repealed in its entirety," which motion was seconded and carried as follows:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gilbert and Stauber -- 6

Nays: Councilors Gardner, Krause and President Reinert -- 3

Councilor Gardner moved to amend subparagraph (b) of the second paragraph of the resolution as follows:

(a) Insert the word "all" before the word "Duluth";

(b) Delete the words "one through four,"

which motion was seconded and discussed.

Councilors Gardner and Krause supported the amendment for the reasons of: the referendum is advisory and nonbinding; other councilors wish to know what their specific district and the city as a whole wishes; it is in the spirit of wanting to reunite the city; it is a different world now, with a very mobile community; when this law was originally put in place, there was not the zoning and liquor licensing requirements that we have now and this is a good compromise from the prior council resolution.

Councilors Fedora and Stauber opposed the amendment for the reasons of: all of Duluth is not impacted by this and this law was created only for this section of town and only that section of town should decide if they wish to keep this law.

The amendment failed as follows:

Yeas: Councilors Gardner and Krause -- 2

Nays: Councilors Anderson, Cuneo, Fedora, Fosle, Gilbert, Stauber and President Reinert -- 7

Councilor Krause noted that: other areas of town are affected by this because these Lakeside residents, who may be impaired by alcohol, go to other areas of town to purchase or consume alcohol; if we are going to be a city, we need to get rid of this east-west issues; to say that we do not want alcohol in our neighborhood and then go to a different neighborhood for alcohol, divides the community and we owe it to all of our community to hear the perspectives of the entire city.

Resolution 08-0097, as amended, was adopted as follows:

BY COUNCILOR FEDORA AND PRESIDENT REINERT:

The city council finds:

(a) Since 1894, a state statute has restricted the sale of alcoholic beverages in the Lakeside neighborhood of Duluth;

(b) The legislature has delegated great control of alcoholic beverage sales to local units of government;

(c) The 2008 legislative session will focus primarily on bonding and financial issues.

THEREFORE, BE IT RESOLVED, that the city council intends to prepare the matter of alcohol sales in the Lakeside neighborhood for possible legislative action in the 2009 session by doing the following:

(a) On or before September 1, 2008, it will prepare a referendum question on the matter;

(b) The question will be submitted in advisory referendum to the voters in Duluth precincts one through four at the November 2008 election;

(c) The results of the advisory referendum will determine what, if any, action on matter the city will propose to the state legislature in its 2009 session.

BE IT FURTHER RESOLVED, that Resolution 07-0772 is repealed in its entirety.

Resolution 08-0097, as amended, was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Stauber and President Reinert -- 7

Nays: Councilors Gilbert and Krause -- 2

Approved January 28, 2008

DON NESS, Mayor

- - -

Resolution 08-0095, by President Reinert, setting legislative priorities for the 2008 legislative session, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Councilor Stauber moved to amend the resolution by deleting everything after the DECC request (b) in the second paragraph, except the issue of the Spirit Mountain legal description (f) in the third paragraph, which motion was seconded and discussed.

Councilor Stauber felt that the list of items are too long, given that the city has two priorities.

Councilor Stauber's amendment failed upon the following vote:

Yeas: Councilors Fedora, Fosle, Krause and Stauber -- 4

Nays: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

Resolution 08-0095 was adopted as follows:

BY PRESIDENT REINERT:

The city council finds as follows:

(a) The city administration and council wish to establish a clear set of priorities with respect to legislative initiatives which the city supports in the 2008 legislative session; and

(b) The city administration and council have devoted meeting time and discussion to the city legislative priorities; and

(c) The city administration and council choose to express support for legislative initiatives which are of vital interest to the community; and

(d) The city administration and council have established priorities among the legislative issues designating two projects as highest priority, designating six items city priorities and designating five items as initiatives which are to receive city support.

NOW, THEREFORE, BE IT RESOLVED, that the city staff and elected officials will take the lead role in advancing the following highest priority legislative concerns for the 2008 legislative session:

(a) The city requests an allocation of state bond proceeds in the amount of \$12,750,000 for the construction of wastewater containment facilities in order to ensure that the city remains in compliance with federal environmental protection agency requirements with respect to non-discharge of wastewater into Lake Superior; and

(b) The city requests an allocation of state bond proceeds in the amount of \$40,283,000 for improvements to the Duluth entertainment convention center including construction of a new arena facility. The city also seeks enactment of a .75% food and beverage tax increase with revenues committed to making principal and interest payments on city bonds issued to provide local matching funds for construction of the improvements to the Duluth entertainment convention center.

FURTHER RESOLVED, that the city designate the following legislative initiatives as city priorities for the 2008 legislative session:

(a) Support for the restoration of funding for police and fire amortization aid; and

(b) Support increased funding for the local government aid formula; and

(c) Support state funding requests to plan for the restoration of passenger rail service between Duluth and the Twin Cities; and

(d) Support for the \$2,180,000 allocation of state bond proceeds for maintenance and capital improvement to attain a.z.a. accreditation at the Lake Superior zoo; and

(e) Support for the \$5,725,000 allocation of state bond proceeds for the first phase of development of new terminal facilities at the Duluth international airport; and

(f) Support legislation to correct the legal description of the boundaries of the tracts of land administered by the Spirit Mountain recreation area authority.

FURTHER RESOLVED, that the city staff and elected officials expressed city support for the following legislative proposals during the 2008 session:

- (a) The allocation of state bond proceeds for the port development assistance program; and
- (b) The allocation of state bond proceeds for the redevelopment grant program; and
- (c) The allocation of state bond proceeds for the business development infrastructure fund; and
- (d) A general fund appropriation for Minnesota investment fund; and
- (e) A general fund appropriation for the main street Minnesota revitalization program.

Resolution 08-0095 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause and President Reinert -- 7

Nays: Councilors Fedora and Stauber -- 2

Approved January 28, 2008

DON NESS, Mayor

- - -

Resolution 08-0060, by Councilor Fosle, authorizing a second amendment to Contract C-19702 with Short Elliot Hendrickson, Inc., for detail design engineering services related to the construction of Trunk Highway 53 (Miller Trunk Highway) and adjacent frontage roads, county roads and city streets, increasing the amount by \$18,542 for a new total of \$433,545.15, was introduced for discussion.

Councilor Krause opposed the resolution because he believed that building this frontage road into the neighborhoods without building the feeder through to Arrowhead Road is an ill conceived plan.

Resolution 08-0060 was adopted as follows:

BY COUNCILOR FOSLE:

RESOLVED, that the proper city officials are hereby authorized to enter into a second amendment to City Contract No. C-19702 with Short Elliot Hendrickson, Inc., for engineering services for the design of the city's portion of the Miller Trunk Highway project. This increase is for additional engineering services required for gas main work, sanitary sewer work and the water-main crossing at TH 53. This amendment increases the contract in the amount of \$18,542 for a new total of \$433,545.15, payable from the Permanent Improvement Fund 0411, Department/ Agency 035, Object 5530, City Project No. 0391TR.

Resolution 08-0060 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved January 28, 2008

DON NESS, Mayor

- - -

Resolution 08-0091, by Councilor Anderson, authorizing agreement with Finnfest 2008 for \$10,000 previously allocated, was introduced for discussion.

Councilors Gilbert, Krause and Fedora opposed the resolution for the reasons of: taxpayers' money should not be used to fund it; by funding this, the door is open for many similar

requests and this particular entity does not need this because the last time they did this they had ended up with a \$50,000 profit for their scholarships.

Resolution 08-0091 was adopted as follows:

BY COUNCILOR ANDERSON:

The city council finds:

- (a) FinnFest 2008 has produced a public tourist event in the past and plans to do so again, expecting over 7,000 people to attend; and
- (b) The event will benefit the local culture and economy; and
- (c) Funds for the event were allocated by Resolution 07-0784 and are available.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute and implement an agreement, substantially the same as that on file with the city clerk as Public Document No. 08-0128-28, between the city and FinnFest 2008 in amount of \$10,000 for promotion of a major tourist event in 2008; payment from Fund 258, Agency 030, Object 5436-06.

Resolution 08-0091 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Stauber and President Reinert -- 6

Nays: Councilors Fedora, Gilbert and Krause -- 3

Approved January 28, 2008

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR GILBERT

08-005 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,475,000 GENERAL OBLIGATION AERIAL LIFT BRIDGE IMPROVEMENT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

- - -

BY COUNCILOR STAUBER

08-004 - AN ORDINANCE GRANTING TO DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND OCCUPY A BUS SHELTER ON GARFIELD AVENUE ACROSS FROM THE GOODWILL STORE IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH CONCURRENT USE PERMIT.

- - -

BY COUNCILOR STAUBER

08-008 - AN ORDINANCE AUTHORIZING THE SALE OF A HALF ACRE OF UNDEVELOPED PARK IN LAKE VIEW MANOR DIVISION TO WHITE PINE DEVELOPMENT FOR \$_____.

Councilor Stauber moved to remove the ordinance and return it to the administration as per their request, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR STAUBER

08-009 - 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, ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT, TO C-5, PLANNED COMMERCIAL DISTRICT, THREE

ACRES OF PROPERTY ON THE NORTH SIDE OF CENTRAL ENTRANCE BETWEEN MYRTLE STREET/ANDERSON ROAD AND MIDAS SERVICE CENTER (ADDRESS/CMRA).

- - -

BY COUNCILOR STAUBER

08-011 - AN ORDINANCE PERTAINING TO THE LICENSING OF RENTAL PROPERTIES; AMENDING CITY CODE SECTION 29A-29 AND SECTION 29A-34, DECLARING MORATORIUM.

- - -

BY COUNCILOR FEDORA

08-007 - AN ORDINANCE AMENDING SECTION 2-172 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO HOUSING INVESTMENT FUND.

- - -

BY COUNCILOR FEDORA

08-010 - AN ORDINANCE AMENDING CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED; ADDING ARTICLE XXXIV - MINIMUM REQUIREMENTS FOR A PHYSICAL DEVELOPMENT FINANCED BY CITY.

- - -

BY COUNCILOR FOSLE

08-006 - AN ORDINANCE ALIENATING CERTAIN PROPERTY IN THE CENTRAL HILLSIDE AND AUTHORIZING SALE OF SAME TO RUSSELL STEWART FOR \$2,860.

- - -

The meeting was adjourned at 9:08 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9884

BY COUNCILOR STAUBER:

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 W-1, WATERFRONT DISTRICT, TO R-1-C, ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT, FOUR LOTS IN BLOCK 39, HUNTER AND MARKELLS GRASSY POINT ADDITION (LEHR/MUNGER).

The city of Duluth does ordain:

Section 1. That Plate No. 12 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 at end of meeting]

(Reference Planning Commission File No. 07149)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 9, 2008)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

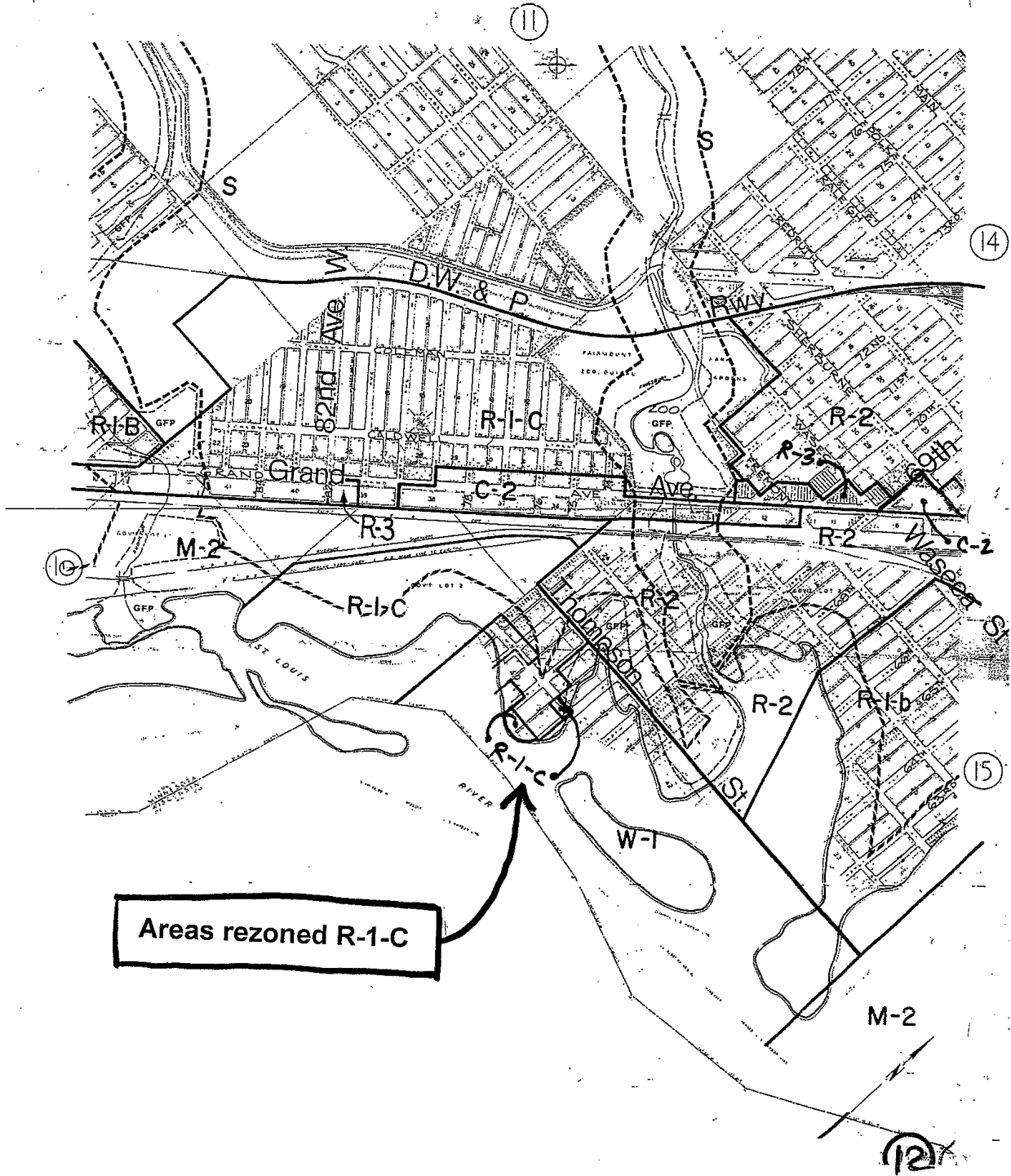
ATTEST:

JEFFREY J. COX, City Clerk

Passed January 28, 2008

Approved January 28, 2008

DON NESS, Mayor



OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, February 7, 2008, 5:05 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0207-01 The PFM Group: (a) Presale analysis; (b) Official statement; (c) Bid results; regarding the proposed issuance of tax and aid anticipation certificates of indebtedness of 2008 (08-0098R). -- Received

- - -

MOTIONS AND RESOLUTIONS

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. 08-0023, adopted January 14, 2008, authorized the issuance and provided for the sale of \$18,500,000 General Obligation Tax and Aid Anticipation Certificates of Indebtedness of 2008 (the "Certificates") in anticipation of collection of taxes levied in the year 2007 for collection during the year 2008 and state aids receivable in 2008 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 Commerce Capital Markets, Inc. of Philadelphia, Pennsylvania (the "Purchaser"), to purchase the Certificates at a cash price of \$18,736,337.50, plus accrued interest on the total principal amount from February 20, 2008, 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 20, 2008, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form, and shall mature on December 31, 2008 (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 2.50 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 16, 2008, 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 2008

R-1

\$18,500,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	December 31, 2008	February 20, 2008	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: EIGHTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS

The City of Duluth, in the County of St. Louis, State of Minnesota (the "City"), acknowledges itself to be indebted and for value received hereby promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, together with interest thereon from the date of original issue specified above until paid at the annual interest rate specified above. Interest shall be computed on the basis of a 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 16, 2008, 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 \$18,500,000, 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 7, 2008 (the "Resolution").

It is hereby certified and recited that a sum of \$36,823,200 was the amount (i) embraced in the tax levies for the general fund (the "Fund") of the City levied in the year 2007 for collection during the year 2008, and (ii) the estimated amount of state aids receivable by the City for the Fund in the year 2008; and that none of said amounts have at this time been collected and credited to the City's Fund; that heretofore no tax or aid anticipation certificates have been issued against said tax levies or state aids for such Fund; and that this Certificate is issued in anticipation of collection of said taxes and state aids.

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

The Certificates of this series are issued as fully registered certificates without coupons, in the denomination of \$5,000 each, or any integral multiple thereof. Subject to limitations set forth in the Resolution, the City will, at the request of the registered owner, issue one or more new fully registered certificates in the name of the registered owner in the aggregate principal amount equal to the unpaid principal balance of this Certificate, and of like tenor except as to number and principal amount. Subject to the limitations set forth in the Resolution, this Certificate is transferable by the registered owner hereof upon surrender of this Certificate for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate and deliver, in exchange for this Certificate, one or more new fully registered certificates in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Certificate.

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

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

IN WITNESS WHEREOF, City of Duluth, by its City Council, has caused this Certificate to be executed in its name by the facsimile signatures of the mayor and the city clerk; and the City has caused this Certificate to be dated February 20, 2008.

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
2/20/08	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)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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 2008, 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 \$18,500,000 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 \$18,500,000, 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 \$655,600, pursuant to Section 3 of Ordinance No. 9880 (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% of the amount, if any, necessary to pay the interest on the Certificates. The City Council hereby certifies that the General Fund Taxes are \$7,761,500, and based on notices from the Minnesota Department of Revenue, the State Aids are reasonably expected to be \$29,061,700;

C. The City Council hereby declares that the full faith and credit and taxing power of the City and the proceeds of the current tax levies for the General Fund, which is the amount levied in Section 2 of Ordinance No. 9880, adopted by the City Council on December 17, 2007 (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 2008 (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 08-0098 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause and President Reinert -- 8

Nays: Councilor Stauber -- 1

Approved February 7, 2008

DON NESS, Mayor

- - -

Resolution 08-0135, approving parking agreement and accepting \$1,604,557 in bond fees from SMDC [*St. Mary's Medical Center/Duluth Clinic*], was introduced by Councilor Stauber for discussion.

Mayor Ness reviewed that this was a very expensive project committed to by the previous council with the city subsidizing it to a great extent last year, but this agreement goes a long way to reduce the amount of public subsidy and is a good deal for the city and SMDC.

Resolution 08-0135 was adopted as follows:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement an agreement, substantially the same as that on file with the clerk as Public Document No. 08-0207-02, between the city and Saint Mary's Duluth Clinic Health System for the use of at least 200 parking spaces; payment of amounts due related to construction, consent to refinancing bonds.

BE IT FURTHER RESOLVED, that the city gives consent to the refinancing of 2004 series bonds and accepts \$1,604,557 as present value of IDB fees due it thereon, to be deposited in Parking Fund 505, debt service account, medical district parking ramp.

Resolution 08-0135 was unanimously adopted.

Approved February 7, 2008

DON NESS, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR GILBERT

08-013 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$3,506,250 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.

- - -

INTRODUCED BY COUNCILOR GILBERT

08-014 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$3,825,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL WATER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

INTRODUCED BY COUNCILOR GILBERT

08-015 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$3,293,750 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL GAS 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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The meeting was adjourned at 5:20 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 11, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on November 26 and 30, 2007, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0211-01 The following communications regarding proposed ordinance pertaining to the housing investment fund (08-007-O): (a) Kathy Dockter; (b) Joe Johnson; (c) Minnesota housing finance agency; (d) Tiss Underdahl. -- Received

08-0211-13 The following communications regarding proposed special use permits for Lester Park Clinic (08-0093R, 08-0094R) and Diamond Willow Residential Care Facility (08-0087R, 08-0088R) (A&L Properties): (a) Bonnie Williams Ambrosi (supported by 15 names); (b) Steven Boberg; (c) Janet Draper; (d) Brian Fredrickson; (e) Kim Gilbertson; (f) Pat Greenwood; (g) St. Luke's. -- Received

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REPORTS FROM OTHER OFFICERS

08-0211-03 Clerk applications to the Minnesota gambling control board for exemption from lawful gambling licenses (raffles) from: (a) Holy Family Catholic Church on September 20, 2008; (b) Lake Superior Marine Museum Association on November 8, 2008; (c) Minnesota AIDS Trek on September 7, 2008; (d) Minnesota Chiefs of Police Association on April 22, 2008; (e) St. Louis and Carlton County Pheasants Forever on April 18, 2008. -- Received

08-0211-04 Parks and recreation department Lake Superior zoological society minutes of November 28, 2007, meeting. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

08-0211-14 Alcohol, gambling and tobacco commission minutes of: (a) September 5; (b) October 3; (c) November 7, 2007, meetings. -- Received

08-0211-05 American Indian commission minutes of December 17, 2007, meeting. -- Received

08-0211-06 Duluth airport authority minutes of: (a) December 18; (b) December 27, 2007, meetings. -- Received

08-0211-07 Duluth legacy endowment fund project group minutes of December 18, 2007, meeting. -- Received

08-0211-08 Duluth public arts commission minutes of January 28, 2008, meeting. -- Received

08-0211-09 Duluth transit authority income statement for October 2007. -- Received

08-0211-34 Duluth transit authority minutes of December 12, 2007, meeting. -- Received

08-0211-10 Entertainment and convention center authority minutes of January 29, 2008, meeting. -- Received

08-0211-11 Library board minutes of November 27, 2007, meeting. -- Received

08-0211-12 Seaway Port authority of Duluth minutes of October 25, 2007, meeting. -- Received

- - -

At this time, 7:03 p.m., President Reinert explained that resolutions 08-0081 and 08-0082 were being withdrawn from the agenda, so there was no longer a need for the public hearing regarding the Duluth economic development authority (DEDA) membership composition. He opened the public hearing and no one from the public spoke on the resolutions. The public hearing was closed at 7:05 p.m.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Joe Perfetti spoke on behalf of the Harrison Community Club and stated they took Mayor Ness's advise and started a campaign to raise money to rehabilitate the community center building.

- - -

Warner Wirta voiced concern that by leaving barrels in Lake Superior they are slowly poisoning the citizens of Duluth.

- - -

RESOLUTIONS TABLED

Councilor Stauber moved to remove Resolution 08-0014, denying a concurrent use permit to Mr. D's Bar and Grill, for awnings at 5622 Grand Avenue (Al Terwey), from the table, which motion was seconded and unanimously carried.

- - -

Councilor Stauber moved to consider Ordinance 08-002 at this time, which motion was seconded and unanimously carried.

INTRODUCTION AND CONSIDERATION OF ORDINANCE

ORDINANCE TABLED

INTRODUCED BY COUNCILOR STAUBER

08-002 (9885) - AN ORDINANCE GRANTING TO AL TERWEY, DBA MR. D'S BAR AND GRILL, A CONCURRENT USE PERMIT FOR FIXED AWNINGS TO PROJECT INTO AND OVER THE RIGHT-OF-WAY OF GRAND AVENUE AND RAMSEY STREET FOR PROPERTY LOCATED AT 5622 GRAND AVENUE.

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

- - -

Resolution 08-0014 failed upon a unanimous vote (Public Document No. 08-0211-15).

- - -

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

- - -

Councilor Stauber moved to remove Resolution 08-0047, denying a concurrent use permit to the Duluth Transit Authority (DTA) for a bus shelter on Garfield Avenue, from the table, which motion was seconded and unanimously carried.

Councilor Stauber moved to consider Ordinance 08-004 at this time, which motion was seconded and unanimously carried.

INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR STAUBER

08-004 (9890) - AN ORDINANCE GRANTING TO DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND OCCUPY A BUS SHELTER ON GARFIELD AVENUE ACROSS FROM THE GOODWILL STORE IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH CONCURRENT USE PERMIT.

- - -

Resolution 08-0047 failed upon a unanimous vote (Public Document No. 08-0211-16).

- - -

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

- - -

Councilor Stauber moved to remove Resolution 08-0066, amending the Standing Rules of the city council to delete Rule 18 regarding business subsidy resolutions in its entirety, from the table, which motion was seconded and unanimously carried.

Councilor Stauber explained that by changing this rule it would change the required number of public hearings needed for a public business subsidy to be held by the council and DEDA from three to two, one hearing for the DEDA meeting and one for the council meeting.

Resolution 08-0066 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that Rule 18 of the Standing Rules of the city council, which requires that resolutions granting a business subsidy under the Duluth City Code or Minnesota Statutes shall not be passed by the council until they have received a first reading before the council and have remained on file at least one week thereafter, is hereby deleted in its entirety.

Resolution 08-0066 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved February 11, 2008

DON NESS, Mayor

- - -

Councilor Stauber moved to remove Resolution 08-0081, amending Rule 14 of the Standing Rules of the city council pertaining to committee appointments; and Resolution 08-0082, amending Resolution 89-0323 establishing the Duluth economic development authority (DEDA) to change the composition of the membership of the authority and to provide for the appointment and removal of DEDA's executive director by the commissioners subject to city council approval and

further subject to veto by the mayor, from the table, which motion was seconded and unanimously carried.

Councilor Stauber moved that these resolutions be removed from agenda, which motion was seconded and unanimously carried.

- - -

Councilor Stauber moved to remove Resolution 08-0084, denying a rezoning petition to provide for the reclassification from R-1-b, One- and Two-family Residential District, to C-5, Planned Commercial District, three acres of property on the north side of Central Entrance between Myrtle Street/Anderson Road and Midas Service Center (Address/CMRA), from the table, which motion was seconded and unanimously carried.

Councilor Stauber moved to consider Ordinance 08-009 at this time, which motion was seconded and unanimously carried.

INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR STAUBER

08-009 (9891) - 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, ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT, TO C-5, PLANNED COMMERCIAL DISTRICT, THREE ACRES OF PROPERTY ON THE NORTH SIDE OF CENTRAL ENTRANCE BETWEEN MYRTLE STREET/ANDERSON ROAD AND MIDAS SERVICE CENTER (ADDRESS/CMRA).

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

Robert Griffin urged the councilors not to approve the zoning change as it will do irreparable damage to his home in the form of aesthetic value, material value and long term physical value. He continued by saying that his home will now be on the edge of a commercial zone, and since the 1980's with the temporary improvement of Myrtle Street, there has been stormwater running into his backyard and into his basement because there were no culverts or ditches included in the construction of the street, and the city is unwilling to do anything to help with the water issues in the backyard.

Beth Wentzloff and James Koehler urged support of the zoning change from residential to C-5 as this hotel and restaurant project will be an opportunity for new jobs and new tax base for the city.

Resolution 08-0084 failed upon a unanimous vote (Public Document No. 08-0211-17).

- - -

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

- - -

Councilor Stauber moved to remove resolutions 08-0087 and 08-0088, approving and denying, respectively, a special use permit to A&L Properties for a residential care facility; and resolutions 08-0093 and 08-0094, approving and denying, respectively, a special use permit to A&L Properties for a 10,000 square foot medical clinic, 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.

The following speakers spoke against the project for the following reasons: Gail Gilliland, John Thomas, Connie Sylvester, Pat Thomas; Bonnie Ambrosi, Susan Abrahamson, Kathy Winkler, Leona Imiter, Lisa Lokken-Dunn and Chris Dunn stated that: there needs to be council leadership to establish policies for the long range health of our community; the forest must be allowed to cleanse the air and soften the effect of global warming; wetlands and water resources must be protected for the future; good planning will develop into a sustainable community; there needs to be a 50 foot buffer; why do the projects have to be built together and not separated into two different locations; this is a low density residential neighborhood and not part of the mixed use neighborhood; it will affect the property values; small neighborhoods will disappear with developments like this; this forest is part of undeveloped land and the destruction of the forest is in direct opposition to the comprehensive plan; extending city infrastructure will make a bad problem even worse; it is easy to think that one development does not matter, but they all do; traffic off the expressway already comes speeding down the road and the development will have a large amount of impervious surface which will increase the runoff to the lake.

The following speakers supported of the project for the following reasons: John Simpson, Natalie Zeleznekar and Ron Franzen stated that: the clinic is a positive for the neighborhoods; small community living is desirable for the seniors especially if they have been living in that neighborhood raising their families; these are services people want for their aging parents; these facilities would provide care close to homes; St. Luke's Clinics in other parts of town that have been merged into neighborhoods have been an asset for the citizens and the neighborhoods and this project will bring St. Luke's services closer to the public.

Councilor Krause introduced two amendments to Resolution 08-0087 that he said would meet the needs of everyone and move things forward in a positive way.

Councilor Krause moved to amend Resolution 08-0087 as follows:

(a) Add the words "RESOLVED, that" at the beginning; and

(b) Add the the following language at the end:

"(e) There shall be no development ever on the site within 300 feet of the shoreline of Lester River,"

which motion was seconded and carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause and Stauber -- 7

Nays: None -- 0

Abstention: Councilor Fedora and President Reinert -- 2

Councilor Krause moved to amend Resolution 08-0087 to add the following language at the end:

"(f) There shall be an undeveloped buffer zone surrounding the site which zone is the first 50 feet from the property line. No development shall be allowed in this zone, except for a vehicle and pedestrian main entrance access,"

which motion was seconded and carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert and Krause -- 6

Nays: Councilor Stauber -- 1

Abstention: Councilor Fedora and President Reinert -- 2

Councilor Krause moved to amend Resolution 08-0093 to add the following language at the end:

"(e) There shall be no development ever on the site within 300 feet of the shoreline of Lester River,"

which motion was seconded and carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause and Stauber -- 7

Nays: None -- 0

Abstention: Councilor Fedora and President Reinert -- 2

Councilor Krause moved to amend Resolution 08-0093 to add the following language at the end:

“(f) There shall be an undeveloped buffer zone surrounding the site which zone is the first 50 feet from the property line. No development shall be allowed in this zone, except for a vehicle and pedestrian main entrance access,”

which motion was seconded and carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert and Krause -- 6

Nays: Councilor Stauber -- 1

Abstention: Councilor Fedora and President Reinert -- 2

Councilor Gardner said that her amendment is responding to the frustration of the neighborhood with the process of the planning commission and their inability to speak to the planning commission about their concerns.

Councilor Gardner moved to amend Resolution 08-0088 by inserting in the place indicated for findings the following language:

“(a) The development plan does not sufficiently meet the criteria for the designated sensitive land overlay in that it does not adequately address the principles of conservation design, which include:

- (1) Flexibility in site design and lot size;
- (2) Thoughtful protection and management of natural areas;
- (3) Reduction of impervious surface areas;
- (4) Sustainable stormwater management;

(b) Failure to address these principles may result in runoff in an area with existing runoff problems, which may contribute to further negative environmental impacts;

(c) The adjoining neighborhood property values will be negatively impacted;

(d) It will foster a pattern of random development in a R-1-b zone.”

which motion was seconded and carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert and Krause -- 6

Nays: Councilor Stauber -- 1

Abstention: Councilor Fedora and President Reinert -- 2

Councilor Gardner moved to amend Resolution 08-0094 by inserting in the place indicated for findings the following language:

(a) The development plan does not sufficiently meet the criteria for the designated sensitive land overlay in that it does not adequately address the principles of conservation design, which include, but are not limited to:

- (1) Flexibility in site design and lot size;
- (2) Thoughtful protection and management of natural areas;
- (3) Reduction of impervious surface areas;
- (4) Sustainable stormwater management;

(b) Failure to address these principles may result in additional runoff in an area with existing runoff problems, which may further contribute to negative environmental impacts;

(c) The adjoining neighborhood property values will be negatively impacted;

(d) It will foster a pattern of random development in a R-1-b zone,

which motion was seconded and carried upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert and Krause -- 6

Nays: Councilor Stauber -- 1

Abstention: Councilor Fedora and President Reinert -- 2

Councilors Anderson and Cuneo moved to amend resolutions 08-0087 and 08-0093 to add the following language at the end:

“(g) The utility easement of record that passes through Lot 3, Block 57, Lester Park Fourth Division, shall not be used as a part of any residential care facility or clinic project on this property, to the extent a limit is allowed by law;

(h) The residential care facility and medical clinic uses that make up the proposed project shall not be expanded in the future, to the extent this limit is allowed by law,” which motion was seconded for discussion.

Councilor Cuneo stated that these amendments are one more measure to protect the neighborhood.

The amendments to both resolutions carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause and Stauber -- 7

Nays: None -- 0

Abstention: Councilor Fedora and President Reinert -- 2

Councilor Gilbert reviewed that the Mt. Royal Clinic has more square footage than this proposed project and has not had a negative impact on the environment and has integrated well into the neighborhood, and it is a benefit having healthcare in that area with our aging community.

Resolution 08-0087, as amended, was adopted as follows:

RESOLVED, that the city council finds as follows:

(a) An application was filed with the city clerk requesting a special use permit for a residential care facility for property described as Lots 4 to 8 and Lots 25 to 29, Block 57, Lots 3 to 9, Lots 30 to 35 and parts of Lots 1, 2, 10, 27, 28, 29, and 36 Block 64, and 27-29, Block 64 all in Lester Park Fourth Division (FN 07154); and

(b) Pursuant to Section 50-35(v) of Article IV 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

(c) The planning commission, at its December 11, 2007, regular meeting, recommended approval of the request with conditions; and

(d) The approval was made because of the city planning commission 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.

FURTHER RESOLVED THAT,

The city council of the city of Duluth approves a special use permit for a residential care facility, subject to the following conditions:

(a) City engineer approval for curb cut locations and traffic considerations;

(b) Public works approval for utility extensions, final locations and storm water plan, including water quality;

(c) Fire department approval for access and hydrant locations;

(d) Planning director for approval of final site plan, such review to include:

(1) Edge treatments, screening to adjacent properties, the "face" on the Superior Street;

- (2) Lighting, parking lots and buildings, with particular attention to prevent spill beyond property boundaries;
 - (3) Signs;
 - (4) Continuity for pedestrians from bus stop, extend sidewalk to Superior Street entrance;
 - (5) Clearing limits for site;
 - (6) Compliance with wetland regulations;
 - (7) Placement of buildings and parking areas to minimize impacts on adjacent residential properties;
 - (8) Service areas, trash enclosures, snow storage locations, etc.;
 - (9) Building elevations;
- (e) There shall be no development ever on the site within 300 feet of the shoreline of Lester River;
- (f) There shall be an undeveloped buffer zone surrounding the site which zone is the first 50 feet from the property line. No development shall be allowed in this zone, except for a vehicle and pedestrian main entrance access;
- (g) The utility easement of record that passes through Lot 3, Block 57, Lester Park Fourth Division, shall not be used as a part of any residential care facility or clinic project on this property, to the extent a limit is allowed by law;
- (h) The residential care facility and medical clinic uses that make up the proposed project shall not be expanded in the future, to the extent this limit is allowed by law.

Resolution 08-0087, as amended, was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gilbert, Krause and Stauber -- 6

Nays: Councilor Gardner -- 1

Abstention: Councilor Fedora and President Reinert -- 2

Approved February 11, 2008

DON NESS, Mayor

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Resolution 08-0088, as amended, failed upon the following vote (Public Document No. 08-0211-18):

Yeas: Councilor Gardner -- 1

Nays: Councilors Anderson, Cuneo, Fosle, Gilbert, Krause and Stauber -- 6

Abstention: Councilor Fedora and President Reinert -- 2

- - -

Resolution 08-0093, as amended, was adopted as follows:

RESOLVED, that the city council finds as follows:

(a) An application was filed with the city clerk requesting a special use permit for a 10,000 square foot medical clinic for property described as Lots 4 to 8 and Lots 25 to 29, Block 57, Lots 3 to 9, Lots 30 to 35 and parts of Lots 1, 2, 10, 27, 28, 29 and 36 Block 64, and 27-29, Block 64 all in Lester Park Fourth Division (FN 07153); and

(b) Pursuant to Section 50-35(h) of Article IV 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

(c) The planning commission, at its December 11, 2007, regular meeting, recommended approval of the request with conditions; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

(d) The approval was made because of the city planning commission 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.

FURTHER RESOLVED THAT,

The city council of the city of Duluth approves a special use permit for a 10,000 square foot medical clinic, subject to the following conditions:

- (a) City engineer approval for curb cut locations and traffic considerations;
- (b) Public works approval for utility extensions, final locations and storm water plan, including water quality;
- (c) Fire department approval for access and hydrant locations;
- (d) Planning director for approval of final site plan, such review to include:
 - (1) Edge treatments, screening to adjacent properties, the "face" on the Superior Street;
 - (2) Lighting, parking lots and buildings, with particular attention to prevent spill beyond property boundaries;
 - (3) Signs;
 - (4) Continuity for pedestrians from bus stop, extend sidewalk to Superior Street entrance;
 - (5) Clearing limits for site;
 - (6) Compliance with wetland regulations;
 - (7) Placement of buildings and parking areas to minimize impacts on adjacent residential properties;
 - (8) Service areas, trash enclosures, snow storage locations, etc.;
 - (9) Building elevations;
- (e) There shall be no development ever on the site within 300 feet of the shoreline of Lester River;
- (f) There shall be an undeveloped buffer zone surrounding the site which zone is the first 50 feet from the property line. No development shall be allowed in this zone, except for a vehicle and pedestrian main entrance access;
- (g) The utility easement of record that passes through Lot 3, Block 57, Lester Park Fourth Division, shall not be used as a part of any residential care facility or clinic project on this property, to the extent a limit is allowed by law;
- (h) The residential care facility and medical clinic uses that make up the proposed project shall not be expanded in the future, to the extent this limit is allowed by law.

Resolution 08-0093, as amended, was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gilbert, Krause and Stauber -- 6

Nays: Councilor Gardner -- 1

Abstention: Councilor Fedora and President Reinert -- 2

Approved February 11, 2008

DON NESS, Mayor

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Resolution 08-0094, as amended, failed upon the following vote (Public Document No. 08-0211-19):

Yeas: Councilor Gardner -- 1

Nays: Councilors Anderson, Cuneo, Fosle, Gilbert, Krause and Stauber -- 6

Abstention: Councilor Fedora and President Reinert -- 2

- - -

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

RESOLVED, that city officials are hereby authorized to contract with Xerox Corporation for copier rental and maintenance services in various departments/ agencies in accordance with state of Minnesota Contract #423082, Release C-660(5), specifications and pricing in the amount of \$51,125.51, payable from various funds, departments/agencies, organizations and objects.

Resolution 08-0108 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On January 2, 2008, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Minnesota Nights, Inc., d/b/a The Tap Room, 402 West First Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 08-0211-20;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on February 11, 2008, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 08-0211-20 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Minnesota Nights, Inc., d/b/a The Tap Room, 402 West First Street, are adopted.

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 fine the licensee \$750 for the first offense, however that \$250 of the fine be due and payable within 30 days of final council action. The remaining fine amount to be stayed for a period of one year following final council action and suspended if licensee is not found liable for further violations of the law committed during that one year period.

Resolution 08-0126 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

WHEREAS, the city of Duluth presently has an available on sale intoxicating liquor license that is not issued to any operating business;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves of the alcohol, gambling and tobacco commission's recommendation and hereby issues said license for the period beginning May 1 ending August 31, 2008, subject to departmental approvals and the payment of sales and property taxes, to:

Blue Sky Duluth, Inc. (Oly's Duluth Pub), 323 West First Street, with David Latour, 25 percent stockholder, Julie Latour, treasurer and 25 percent stockholder, Kathryn Levine, 12.5

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

percent stockholder, Michael Olson, president and 12.5 percent stockholder, on sale intoxicating liquor, on sale Sunday and 2:00 A.M. beverage licenses.

Resolution 08-0127 was unanimously adopted.
 Approved February 11, 2008
 DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with ZipSort, Inc., for postage and daily mailing services for the public works and utilities department in accordance with specifications and the vendor's quote, for a total estimated amount of \$203,000, terms net 30, payable from various funds, departments/agencies, organizations and objects.

Resolution 08-0128 was unanimously adopted.
 Approved February 11, 2008
 DON NESS, Mayor

- - -

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
Welch Center	<ul style="list-style-type: none"> ● Tappa Keg Inn, 7036 Grand Avenue ● Alpine Bar & Lounge, 1308 Commonwealth Avenue ● Grandmas Saloon & Grill, 4602 Grand Avenue ● Grandmas Saloon & Grill, 522 Lake Avenue South ● Congress Bar, 1334 Commonwealth Avenue
Piedmont Heights Hockey Association	<ul style="list-style-type: none"> ● Bergey's, 2232 West Superior Street

Resolution 08-0133 was unanimously adopted.
 Approved February 11, 2008
 DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Ducks Unlimited - University of Minnesota Duluth Chapter, Rotary Club of Duluth, Harbortown, Duluth East Athletic Association and Ruffed Grouse Society 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 08-0134 was unanimously adopted.
 Approved February 11, 2008
 DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED, that the proposed amendments to the specifications for the civil service classification of police officer, which were approved by the civil service board on January 15, 2008, and which are filed with the city clerk as Public Document No. 08-0211-21, are approved. This classification shall remain subject to the city's collective bargaining agreement with its police unit employees and compensated at Pay Range 326.

Resolution 08-0099 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that the appointments by Mayor Ness to the water and gas service hearing board of Jennifer Baumann and Scott Christensen, for terms expiring on September 1, 2010, - replacing Marsha Edgerton and Donald Mantay, are confirmed.

Resolution 08-0101 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness of Rob Karwath to the Duluth legacy endowment fund project group for a term expiring on July 12, 2012, replacing Sandy Carlson who resigned, is confirmed.

Resolution 08-0106 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept the conveyance of a public easement substantially in the form of that on file in the office of the city clerk as Public Document No. 08-0211-22 from the Duluth economic development authority for street, roadway and utility purposes over, under and across a strip of land 66 feet wide lying in the West Half of the Southeast Quarter, Section 34, Township 49 North, Range 15 West, St. Louis County, Minnesota, the centerline of said easement being described as follows:

Commencing at the southwest corner of said W1/2-SE1/4; thence north 00 degrees 17 minutes 17 seconds west, along the west line of said W1/2-SE1/4 a distance of 653.51 feet; thence north 89 degrees 23 minutes 03 seconds east a distance of 224.44 feet to the easterly right-of-way line of Commonwealth Avenue (Minnesota Trunk Highway No. 23) and the point of beginning of the line to be described; thence north 89 degrees 23 minutes 03 seconds east a distance of 337.11 feet; thence northeasterly, along a tangential curve concave to the northwest having a radius of 170.77 feet, central angle of 91 degrees 54 minutes 07 seconds a distance of 273.91 feet; thence north 02 degrees 31 minutes 04 seconds west a distance of 195.64 feet; thence northwesterly, along a tangential curve concave to the southwest having a radius of 2140.85 feet, central angle of 15 degrees 05 minutes 48 seconds, a distance of 564.09 feet; thence northwesterly, along a compound curve concave to the southwest having a radius of 586.50 feet, central angle of 10 degrees 22 minutes 00 seconds a distance of 106.12 feet; thence north 27 degrees 35 minutes 16 seconds west a distance of 86.17 feet; thence north 02 degrees 13 minutes 42 seconds east a distance of 80.57 feet, and there terminating.

Resolution 08-0007 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

- - -

RESOLVED, that the proper city officials are authorized to make the following fund decreases in the Federal Program Fund 260, Agency 020, 2008 HUD-funded community development accounts as set forth below:

2008 HOME Program - Fund 260 - Project CD08HM Account Revised 2008					
Sub project	Activity	Project	Amount	New Grant	Difference
GN08	AD01	Administration	\$72,100	\$70,590	(\$1,510)
GN08	1737	TBRA-administration	\$3,800	\$2,800	(\$1,000)
		Homeowner development project	\$134,562	\$113,299	(\$21,263)
CH08	2270	City Homes Phase VIII NCLT	\$20,000	\$19,370	(\$630)
CH08	1226	Pre-development CCHC	\$17,950	\$17,320	(\$630)

Resolution 08-0107 was unanimously adopted.
 Approved February 11, 2008
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials, acting as fiscal agent for the planning and development department, are hereby authorized to accept a federal highway administration (FHWA) grant administered through the Minnesota department of transportation (Mn/DOT) in the amount of \$79,000 for the purposes of assisting in the creation of a wayfinding plan for Skyline Parkway, which funds shall be paid into Fund 210, Agency 030, Organization 3160, Activity 4210-02.

BE IT FURTHER RESOLVED, that the proper city officials are authorized to act as legal sponsor of said grant, to execute the grant agreement on file with the clerk as Public Document No. 08-021-23 and any related documents required to be executed to accept such grant and to secure cash, in-kind, and volunteer services match of \$21,000 to satisfy the grant agreement.

Resolution 08-0114 was unanimously adopted.
 Approved February 11, 2008
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept the donation of \$10,000 from an anonymous donor to be used as part of the city match for the Skyline wayfinding plan, said sum to be deposited in Fund 210, Agency 030, Organization 3160, Activity 4460.

FURTHER RESOLVED, that the city of Duluth expresses its appreciation to the anonymous donor for their contribution and the public spirit it represents.

Resolution 08-0115 was unanimously adopted.
 Approved February 11, 2008
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of the copy on file in the office of the city clerk as Public Document No. 08-0211-24 to the low income housing tax credit program joint powers agreement with the Minnesota housing finance agency (MHFA) extending the term thereof.

Resolution 08-0118 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-0211-25, with Maurices Incorporated to lease space in the alley level of the Coney Island parking ramp for the installation and maintenance of an auxiliary generator facility at a cost of \$990 per year, payable to city's General Fund 100-015-1515-4623.

Resolution 08-0122 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that the mayor, through the city's community development division, commits to convene a group of community leaders and representatives of city government to attend the National League of Cities Technical Assistance Roundtable on Building Equitable Communities on May 11 through 14 of 2008 in Savannah, Georgia, at which a year-one action plan and vision for a future prosperity agenda will be developed.

Resolution 08-0132 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that proper city officials are hereby authorize 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. 08-0211-26, 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, 2008, and ending March 31, 2011. 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 08-0116 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-0211-27 with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Simon Property Group, L.P., accepting easements and waiving assessment pertaining to Miller Trunk Highway, access roads and signalization.

Resolution 08-0102 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with BFI - Lake Area Landfill for the disposal of vector debris hazardous materials during year 2008 at an estimated amount of \$11,200, terms net 30, payable as follows:

(a) \$6,720 from the Sewer Fund 530, Department/Agency 500, Organization 1945, Object 5384; and

(b) \$4,480 from the Stormwater Fund 535, Department/Agency 500, Organization 1945, Object 5384.

Resolution 08-0103 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Leef Services for laundry services and the rental of miscellaneous items during year 2008 in accordance with state of Minnesota Contract #438968, Release L-359, specifications and pricing at an estimated amount of \$50,000, terms net 30, pick up and delivery service, payable from various funds, departments/agencies, organizations and object.

Resolution 08-0104 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with MacQueen Equipment, Inc., for the purchase and delivery of OEM (original equipment manufacturer) replacement parts for the fleet services division in accordance with existing specifications at an estimated amount of \$30,000, terms net 30, discount ten percent current price list, FOB destination, payable from the Fleet Services Fund 660, Department/Agency 015, Object 5221.

Resolution 08-0109 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Traffic Control Corporation for the purchase and delivery of traffic signal controllers, cabinets, telemetry modules and peripheral equipment in accordance with state of Minnesota Contract #431573, Release T-639(5), specifications and pricing in the amount of \$42,885 plus sales tax of \$2,787.53 for a combined total amount of \$45,672.53, terms net 30, FOB destination, payable as follows:

(a) \$5,096.03 (Requisition 08-0159);

(b) \$6,177.00 (Requisition 08-0160) and \$34,399.50 (Requisition 08-0161);

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

all from the Capital Equipment Fund 250, Department/Agency 015, Organization 2008, Object 5580, Project CE250-E804.

Resolution 08-0110 was unanimously adopted.
Approved February 11, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to pay to Sky Sunday the sum of \$13,722.21 in full and final settlement of the claim which arose out of a blockage in the municipal sanitary sewer near 2210 West Second Street on October 18, 2007; payment to be made from Self-Insurance Fund 610, Agency 036, Organization 1653, Object 5841.

Resolution 08-0113 was unanimously adopted.
Approved February 11, 2008
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Thane Hawkins Polar Chevrolet for the purchase and delivery of two 2008 Chevrolet Silverado 3500 HD (heavy duty) one-ton 4x4 diesel regular cab and chassis pickup trucks in accordance with state of Minnesota Contract #436979, Release T636(5), specifications and pricing for \$56,776.76 plus \$3,689.84 sales tax plus \$100 title registration and tax exempt plates, for a total combined amount of \$60,556.60, payable from the Capital Equipment Fund 250, Department/Agency 015, Organization 2008, Object 5580, Project CE250-V806.

Resolution 08-0117 was unanimously adopted.
Approved February 11, 2008
DON NESS, Mayor

- - -

RESOLVED, that resolutions 05-0721 and 07-0225 are amended, authorizing city officials to extend the contract with Como Oil and Propane Company through December 31, 2008, for the purchase and delivery of liquid propane for the public works and utilities department in the amount of \$69,764 plus \$4,534.66 sales tax for a combined total increase of \$74,298.66, terms net 30, FOB destination, and payable as follows:

- (a) \$65,966.10 from the Water Fund 510, Department/Agency 500, Organization 1955, Object 5390 (Lakewood location);
- (b) \$1,666.51 from the Water Fund 510, Department/Agency 500, Organization 1940-2410, Object 5212 (Garfield location); and
- (c) \$6,666.05 from the Gas Fund 0520, Department/Agency 500, Organization 1940-2410, Object 5212 (Garfield location).

Resolution 08-0124 was unanimously adopted.
Approved February 11, 2008
DON NESS, Mayor

- - -

RESOLVED, city officials are hereby authorized to contract with Service Electric of Superior for completing small electrical work during 2008, including labor and materials for inspection, maintenance and repair of electrical equipment at various sites within the city of Duluth in accordance with state of Minnesota Contract #437179, Release E-79(5), specifications and pricing, at an estimated amount of \$30,000, terms net 30, payable as follows:

- (a) \$12,000 from the Water Fund 510, Department/Agency 500, Organization 1955, Object 5404 (Requisition No. 08-0170);
- (b) \$5,000 from the Water Fund 510, Department/Agency 500, Organization 1955, Object 5220 (Requisition No. 08-0170);
- (c) \$8,000 from the Gas Fund 520, Department/Agency 500, Organization 1960, Object 5404 (Requisition No. 08-0171); and
- (d) \$5,000 from the Gas Fund 520, Department/Agency 500, Organization 1960, Object 5220 (Requisition No. 08-0171).

Resolution 08-0125 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Hydro Metering Technology for the purchase and delivery of Badger water meter parts during year 2008 for the utility operations division in accordance with specifications and the vendor's quote at an estimated total amount of \$37,300, terms net 30, FOB destination, payable from the Water Fund 510, Department/Agency 500, Organization 1940-2410, Object 5220.

Resolution 08-0129 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Dresser, Inc., for the purchase and delivery Roots natural gas meters during year 2008 in accordance with specifications and the vendor's quote (Q#107422) of \$22,117 plus \$1,437.60 sales tax for a combined total amount of \$23,554.60, terms net 30, FOB destination, payable from the Gas Fund 520, Department/Agency 500, Organization 1940-2410, Object 5227.

Resolution 08-0130 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

The city council finds as follows:

(a) The building official of the city of Duluth duly issued condemnation orders against the following parcels of property, grounds of condemnation being the buildings are structurally unsound, open to trespass, and a menace to the neighborhood, and the criteria of City Code Section 10-3 was met in each case and evidence thereof has been placed in the file; and

(b) The cost to the city for the demolition of the following parcels of property has been estimated to not exceed \$26,000; and

(c) Notices of condemnation were served as follows:

Parcel 1: 117 Park Avenue, legally described as north 28'x80' including five feet of vacated avenue adjacent Lot 9, Block 70, Myers Rearrangement of Block 70, Duluth Proper Second Division, by certified mail on James McCauley, 5030 Maxwell Road, Duluth, Minnesota 55804, signed by James McCauley on August 4, 2007; and

Parcel 2: 2822 West Second Street, legally described as east 1/2 of Lot 460, Block 81, Duluth Proper Second Division, by certified mail on Nina E. Sorenson, 2501 Rice Lake Road, Duluth, Minnesota 55811-4819, signed by Jean Summar on August 13, 2007, and to Nina

Sorenson at St. Ann's Residence, 330 East Third Street #109, Duluth, Minnesota 55805, signed by Susan LePak on August 15, 2007.

NOW, THEREFORE, BE IT RESOLVED, that the building official is hereby authorized and directed, forthwith, to take whatever means may be necessary to abate or cause the abatement of the nuisance now existing on the above named properties, and to make prompt report in writing to the city council with respect to the abatement and removal of such nuisances, together with cost if any thereof, to the city of Duluth. (Budget accounting information: 100-100-1504-5453; current unobligated amount: \$55,000; estimated cost of demolition: \$26,000.)

Resolution 08-0100 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a 2007 assistance to fire fighters grant from the U.S. department of homeland security in the amount of \$268,000, said sum to be deposited in Fund 210-030-3174, and to execute Grant Agreement No. EMW-2007-FO-04787 in connection therewith (Public Document No. 08-0211-28).

FURTHER RESOLVED, that the required local match to the granted funds, in the amount of not to exceed \$67,000, shall be payable from the 2008 Capital Equipment Fund 250-015-2008-Project CE250-E803.

Resolution 08-0105 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Streicher's, Inc., for the purchase and delivery of pistols, holsters and ammunition in accordance with state of Minnesota Contract #43248, Release F-490, specifications and pricing in the amount of \$54,135 plus sales tax of \$3,518.78 for a combined total of \$57,653.78, terms net 30, FOB destination, payable as follows:

(a) \$48,241.31 from Capital Equipment Fund 250, Department/Agency 015, Organization 2007, Object 5580, Project CE250-E702;

(b) \$9,412.47 from General Fund 100, Department/Agency 200, Organization 1620, Object 5448.

Resolution 08-0111 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with St. Louis County department of communications to provide computer-aided dispatch system access during year 2008 to the city of Duluth police department in accordance with the bureau of criminal apprehension (BCA) fees of \$26,160, terms net 30, payable from the General Fund 100, Department/Agency 200, Organization 1610, Object 5441.

Resolution 08-0120 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED, that city officials are hereby authorized to execute a maintenance agreement with St. Louis County for computer hardware and software associated with participation in NEMESIS (Northeastern Minnesota enforcement and safety information system) for \$27,500.28, terms net 30, payable from General Fund 100, Department/Agency 200, Organization 1610, Object 5404.

Resolution 08-0121 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Uniform Connection for the purchase of police uniforms as needed during year 2008 in accordance with the city's specifications and the vendor's prices at an estimated total amount of \$20,000, terms net 30, payable from the General Fund 100, Department/Agency 200, Organization 1620, Object 5218.

Resolution 08-0123 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

RESOLVED that the proper city officials are hereby authorized to accept a grant from the U.S. department of justice's office of violence against women in the amount of \$399,971, said sum to be deposited in Fund 215-200-2280-4209-02, to be used as part of that office's grants to encourage arrest policies and enforcement of protection orders program ("arrest" program) and to execute grant documents in connection therewith.

Resolution 08-0131 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

- - -

The following resolutions were also considered:

RESOLVED, that the proper city officials are authorized to make the following fund decreases in the Federal Program Fund 262, Agency 020, 2008 HUD-funded community development accounts as set forth below.

2008 CDBG Program - Fund 262 - Project CD08CD Account Revised 2008					
Sub project	Activity	Project	Amount	New Grant	Difference
		Construction contingency	\$25,000	0	(\$25,000)
PSVC	1244	Duluth hunger project	\$76,000	\$74,000	(\$2,000)
PSVC	1929	Primary health care	\$70,000	\$67,500	(\$2,500)
PSVC	2511	Emergency heating asst.	\$40,000	\$37,500	(\$2,500)
PSVC`	2509	Battered women's shelter	\$35,000	\$30,000	(\$5,000)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

2008 CDBG Program - Fund 262 - Project CD08CD Account Revised 2008					
Sub project	Activity	Project	Amount	New Grant	Difference
PSVC	251A	Transitional housing	\$57,000	\$53,000	(\$4,000)
ADMC	AD01	Program administration	\$457,675	\$417,475	(\$40,200)
ADMC	AD03	Long range fac. plan	\$40,000	\$35,000	(\$5,000)
ADMC	1913	Snap plan implement.	\$50,389	\$35,389	(\$15,000)
					\$101,200

Resolution 08-0119 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved February 11, 2008

DON NESS, Mayor

- - -

Resolution 08-0136, authorizing first amendments to development agreement and program agreement pertaining to the Duluth Heritage Hockey Center, was introduced by Councilor Stauber for discussion.

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

Dick Loraas urged the councilors to support the resolution that would extend the completion date of construction as there was a third party delay in the delivery of bleachers causing the completion date to be delayed.

Councilor Stauber expressed concern that the city has not received proof of financing for phases I and II as required by the contract, which was to be provided before construction began. He also stated that it would be very important to have proof of financing to show where the money is coming from before the \$1.8 million Phase II project starts.

Councilor Stauber moved to amend the resolution by adding the following language:

"BE IT FURTHER RESOLVED, that, regardless of any proposals or amendments to the contrary, the first amendment to the development agreement, and the development agreement, Contract No. 20429, shall contain the following provisions, changed, if necessary, to read as shown:

(a) In Article V, A and B:

ARTICLE V

Developer's Preconstruction Obligations

Prior to construction each Phase of the Project, DHSC and Developer shall have provided to the City the following information and documentation for the Phase to be constructed. Provided that the information and documentation for Phase I shall be provided no later than June 28, 2007, and the information and documentation for Phase II shall be provided no later than December 15, 2007:

A. Construction Plans

Completed design development plans and elevations for the Project which conform to the description of the Project set forth in Paragraph U of Article I, which plans have been approved as provided for in Article VI below.

B. Construction Finance

Proof of Project Financing.

(b) In Article VI, D:

D. Completion of construction

The Developer and DHSC shall complete construction of Phase I of the Project as evidenced by the issuance of the Certificate of Completion as set forth in Paragraph G of this Article no later than April 15, 2008, and shall complete construction Phase II of the Project as evidenced by the issuance of the Certificate of Completion as set forth in Paragraph G of this Article no later than October 31, 2008, unless an extension not to exceed sixty (60) days is granted in writing by the Director.

(c) In Article XII, 2, B:

B. Special Events of Default and Remedies

In addition to the foregoing, in the event that Developer or DHSC shall fail to have fulfilled its obligations under Paragraphs A, B, C and D of Article III, Article IV, Article V and Paragraphs A, B, C and D of Article VI, this Agreement shall automatically terminate, in which event the City shall have no further obligations to Developer or DHSC hereunder," which motion was seconded for discussion.

Heidi Timm-Bujold, assistant business developer, explained that the city's money can not be released until proof of financing for the entire project phases I and II is demonstrated.

Councilor Stauber stated he would remove subparagraph (c) from his amendment [*Special Events of Default and Remedies*].

Councilor Stauber's amendment failed upon the following vote:

Yeas: Councilors Gardner, Krause and Stauber -- 3

Nays: Councilors Anderson, Cuneo, Fedora, Fosle, Gilbert and President Reinert -- 6

Councilor Krause expressed concern that line items have been deleted out of the contract without coming back to the city for approval, which is not a good way to conduct city business.

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause and Stauber -- 8

Nays: President Reinert -- 1

- - -

Resolution 08-0080, authorizing joint powers agreement with multiple parties establishing the Minneapolis-Duluth/Superior passenger rail alliance, was introduced by President Reinert for discussion.

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

Ken Buehler urged the council's support for this resolution which would include the city in the joint powers alliance that has oversight of this project for the next couple of years. He reviewed that this is a nonbinding agreement that the city can stay in or pull out of at any time. Mr. Buehler continued by saying that this project has a projected economic development of 13,800

new jobs, with over 1,200 being in Duluth, and it will connect the Twin Ports area with the seven county metro area.

Councilor Krause voiced concern that the city is being asked to enter into an agreement and commit to spending money without knowing how much will be requested. He questioned if the spending amounts would be coming back to the council for approval.

Mr. Buehler replied that President Reinert would represent the city on the alliance and that the joint powers agreement gives that group the power to spend the money to oversee the project without coming back to the council. He also stated that the city will be asked for more operational funding to keep the project moving, but the plan is to have the federal government fund approximately 80 percent of the infrastructure and equipment with the state and local rail authorities funding the rest.

Resolution 08-0080 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-0211-29 with the Anoka County regional railroad authority, the Hennepin County regional railroad authority, the Isanti County regional railroad authority, the Pine County regional railroad authority, the St. Louis-Lake County regional railroad authority, the city of Minneapolis, and Douglas County, Wisconsin, creating the Minneapolis-Duluth/Superior passenger rail alliance to plan, analyze and facilitate development of a intercity passenger and freight rail service between Duluth/Superior and Minneapolis.

Resolution 08-0080 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert and President Reinert -- 6

Nays: Councilors Fedora, Krause and Stauber -- 3

Approved February 11, 2008

DON NESS, Mayor

- - -

The city council finds as follows:

(a) The health and welfare of each person in Duluth and the very existence of the city, is directly dependent upon the proper functioning of the sanitary sewer collection system. The system has 400 miles of public sewer and over 500 miles of privately-owned lines that comprise 26,000 private sewer connections. Much of the private system is old, has not been maintained, and was built with connections to roof drains and foundation drains. Current law requires that private lines be functional and not leaking. If a sewer line is leaking or illegally connected, it allows rain or snow to enter, and sewage to leak out. That is why the sanitary sewer overflows during heavy rain;

(b) The United States environmental protection agency (USEPA) and the Minnesota pollution control agency (MPCA) have initiated a legal enforcement action against Duluth, alleging violation of environmental laws, seeking large amounts as penalties, and have ordered the city to stop the overflows. The city has two options for action: take responsibility for the situation, or have the state and federal government impose that responsibility;

(c) The preservation and water quality of Lake Superior is affected by the efficacy of Duluth's sanitary sewer collection system because when an overflow occurs, it pollutes the lake;

(d) Duluth's sanitary sewer system includes components built, owned, and operated by the city government, and components built, owned, and operated by private citizens and entities;

(e) In order to function properly, Duluth's sanitary sewer system must operate in conjunction with the collection and treatment system operated by western Lake Superior sanitary district (WLSSD);

(f) In order for the city and its citizens to prosper, new development must be able to access the sanitary sewer system. The continuation of overflows would eventually end such access for new development and lead to expensive fines;

(g) For many years, inflow and infiltration (I&I) or clean water has been able to enter the sanitary sewer system, which causes sanitary sewer overflows during rain events. These overflows are a threat to health and public welfare and Lake Superior. To eliminate overflows will require community commitment to a combination of strategies implemented in the coming months and years;

(h) For many years, the city has repaired and improved the part of the system that it owns and operates, has constructed new components, has renewed old components, and has repaired, maintained, and redesigned, all at the cost of millions of dollars. It has separated the storm sewer system and sanitary sewer system, replaced vented manhole covers, furnished material to divert runoff away from foundations, mandated roof and foundation drain disconnections, built three storage tanks at a cost of over \$11.1 million, renewed 250 lateral lines. It has carried out a program of over 5,300 footing drain disconnections and sump pump installations. These efforts have reduced the amount of I&I or clean water entering the system by eight million gallons/day, or 40 percent (50 percent in some areas), and significantly reduced the volume and number of overflows. However, overflows still occur;

(i) Construction of sewage storage facilities and improvements to the parts of the system owned by the city can have a large effect in solving the overflow problem, but an effective solution must also involve repair, improvement, or replacement of the privately-owned portions of the system, which comprised over 60 percent of the sanitary sewer collection system.

NOW, THEREFORE, BE IT RESOLVED:

(a) Protection of Lake Superior by permanently eliminating all sanitary sewer overflows is a priority of the highest order for the city of Duluth, and protection of the lake is our community's most sacred responsibility. By this resolution, city leadership is committing to taking on the responsibility of completely eliminating overflows. In determining budgets and spending, allocating of resources for enforcement, setting day to day operational priorities, requesting financial assistance from the state or federal government, and planning, the city shall recognize the high priority of eliminating sanitary sewer overflows, and act in compliance with that high priority;

(b) We set the complete elimination of overflows as a top city priority, and city leadership will be committed to attaining this goal as aggressively as possible. This effort will require leadership and participation from the mayor, council, city staff, and community at large. By this resolution, the council is committed to working with the administration to develop and implement a comprehensive strategy that will include these components: building storage facilities; improving integrity of public sanitary collection system; improving the integrity of private service lines; increase commitment to the sump pump disconnect program; seek alternative methods to reduce inflow and infiltration. The city shall increase its level of activity in improving its portion of the sanitary sewer system;

(c) The city shall establish a system to assist owners of the privately-owned parts of the sanitary sewer collection system to repair, maintain, or replace their components that are contributing I&I or clean water to the system;

(d) The city shall increase its level of activity to enforce standards that apply to the privately-owned portions of the system so that surface water does not enter it;

(e) The city shall seek financial assistance from the state and federal government to be used to eliminate sanitary sewer overflows;

(f) The city shall create a funding mechanism to sustain its efforts to eliminate sanitary sewer overflows;

(g) The city shall inform the public of the necessity of making all reasonable efforts to eliminate sanitary sewer overflows;

(h) The city is committed to protecting the water quality of Lake Superior now and for future generations.

Resolution 08-0112 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

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BY COUNCILORS ANDERSON AND CUNEO:

The city council finds:

(a) The city received, by way of free conveyance, certain tax-forfeit property for purposes of a public golf course;

(b) The golf course construction is completed and the property does not contain the actual playing area of the golf course;

(c) There is a public need for the property to be used as a public park, which park contains the golf course.

THEREFORE, BE IT RESOLVED, that the council intends and authorizes that the proper city officials take the actions necessary to add to Lester Park, a city park, the following described property: the description of Parcel C on file with the city clerk as Public Document No. 08-0211-30, to the area of Lester Park, subject to future council approval of any land transfer or expenditure of funds.

Resolution 08-0138 was unanimously adopted.

Approved February 11, 2008

DON NESS, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR FOSLE

08-016 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN THE ONEOTA AREA NEAR THE INTERSECTION OF 39TH AVENUE WEST AND SECOND STREET TO RMN LLLP FOR \$13,500.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR GILBERT

08-005 (9886) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,475,000 GENERAL OBLIGATION AERIAL LIFT BRIDGE IMPROVEMENT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause and President Reinert -- 8

Nays: Councilor Stauber -- 1

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INTRODUCED BY COUNCILOR GILBERT

08-013 (9887) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$3,506,250 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 Krause stated he did not see long-term savings by purchasing the automated meter readers.

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

Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert and President Reinert -- 7

Nays: Councilors Krause and Stauber -- 2

- - -

INTRODUCED BY COUNCILOR GILBERT

08-014 (9888) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$3,825,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL WATER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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

Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert and President Reinert -- 7

Nays: Councilors Krause and Stauber -- 2

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INTRODUCED BY COUNCILOR GILBERT

08-015 (9889) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$3,293,750 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL GAS UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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

Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert and President Reinert -- 7

Nays: Councilors Krause and Stauber -- 2

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BY COUNCILOR STAUBER

08-011 - AN ORDINANCE PERTAINING TO THE LICENSING OF RENTAL PROPERTIES; AMENDING CITY CODE SECTION 29A-29 AND SECTION 29A-34, DECLARING MORATORIUM.

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

Thomas Stanley voiced his opposition to this ordinance as the need to have a rental license was well publicized, and he suggested that the council wait until there is a new zoning ordinance in place with a clearer picture of what the city wants to do with the areas around the universities.

Councilor Stauber stated that although the 300 foot rental ordinance was well publicized by the local media and allowed for a 30 day grace period after it was adopted, this proposed ordinance is one more opportunity for people to license their current rental, but has a fine built into it for the years the house was not licensed and it should not bring any more rentals to a neighborhood.

Councilor Stauber moved passage of the ordinance and the same failed upon the following vote (Public Document No. 08-0211-33):

Yeas: Councilors Fedora, Fosle and Stauber -- 3

Nays: Councilors Anderson, Cuneo, Gardner, Gilbert, Krause and President Reinert -- 6

- - -

BY COUNCILOR FEDORA

08-007 - AN ORDINANCE AMENDING SECTION 2-172 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO HOUSING INVESTMENT FUND.

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

Edie Michalski opposed the ordinance because affordable housing coalitions take worthless parcels of land and turn them into housing which creates stability for families and children, and now is not the time to put additional burden on low income citizens or the nonprofit agencies they turn to for assistance.

Jeff Corey spoke against the ordinance as the changes that are proposed are too narrow and would render the fund useless except for permanent supportive housing projects which are only part of what can be done. He continued by saying that with a downward shift in the housing market, the focus is now on the removal of blight and the acquisition and rehabilitation of existing housing.

Councilor Fedora explained that the ordinance will put more accountability and responsibility on how the city manages its funds while not impacting the supportive housing projects in the city. He also reviewed that the city offers other loan programs where the interest is paid back to the city, such as the 1200 Fund and energy loans.

Councilor Krause reviewed that the public infrastructure is in bad shape along with city buildings and the city does not have enough money to fix these things.

Councilor Fedora moved passage of the ordinance and the same failed upon the following vote (Public Document No. 08-0211-02):

Yeas: Councilors Fedora, Fosle, Krause and Stauber -- 4

Nays: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

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BY COUNCILOR FEDORA

08-010 (9892) - AN ORDINANCE AMENDING CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED; ADDING ARTICLE XXXIV - MINIMUM REQUIREMENTS FOR A PHYSICAL DEVELOPMENT FINANCED BY CITY.

Councilor Fedora moved to amend the first sentence of Section 2-181 of the ordinance as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

- (a) After the phrase "Whenever a physical development," insert the word "application";
- (b) After the phrase "\$100,000 is presented for," delete the words "review or,"

which motion was seconded and unanimously carried.

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

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INTRODUCED BY COUNCILOR FOSLE

08-006 (9893) - AN ORDINANCE ALIENATING CERTAIN PROPERTY IN THE CENTRAL HILLSIDE AND AUTHORIZING SALE OF SAME TO RUSSELL STEWART FOR \$2,860.

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Krause -- 1

- - -

Councilor Gilbert informed the council that city staff has informed him that by tabling Resolution 08-0136 earlier, the project could be jeopardized.

Councilor Gilbert moved to remove Resolution 08-0136, authorizing first amendments to development agreement and program agreement pertaining to the Duluth Heritage Hockey Center, from the table, which motion was seconded and carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert and President Reinert -- 7

Nays: Councilors Krause and Stauber -- 2

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

Dick Loraas explained the request for reconsideration of the tabling motion is due to the various financing closings that will be done in the next few weeks, and it would not be good for a cloud to be hanging over the project with the lack of city approval and their commitment of financing.

Councilor Stauber expressed frustration that several times he has asked the administration or the finance director for proof of financing of the project and the city has never received or approved the financing, and yet the council is being asked to move ahead with these changes. He also stated he had requested from the administration last week that copies of the contract be given to the new councilors for their information and that was not done either.

Resolution 08-0136 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into a first amendment to that certain development agreement bearing City Contract No. 20429, a copy of which amendment is on file in the office of the city clerk as Public Document No. 08-0211-35(a), and a first amendment to that certain program agreement bearing City Contract No. 20430, which amendment is on file in the office of the city clerk as Public Document No. 08-0211-35(b), which

amendments modify certain obligations of the parties and adjust the time frames provided for in said agreements.

Resolution 08-0136 was adopted upon the following vote:

Yeas: Councilors Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 7

Nays: Councilors Anderson and Krause -- 2

Approved February 11, 2008

DON NESS, Mayor

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

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

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ORDINANCE NO. 9885

AN ORDINANCE GRANTING TO AL TERWEY, DBA MR. D'S BAR AND GRILL, A CONCURRENT USE PERMIT FOR FIXED AWNINGS TO PROJECT INTO AND OVER THE RIGHT-OF-WAY OF GRAND AVENUE AND RAMSEY STREET FOR PROPERTY LOCATED AT 5622 GRAND 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 Al Terwey, DBA Mr. D's Bar & Grill, their successors and interests, referred to herein as the permittees, to occupy, serve, and maintain fixed awnings into and over that part of Grand Avenue and Ramsey Street adjoining Blocks 24, 25, 26 and 27, Block 137, West Duluth Fifth Division, as the same was dedicated to the use of public in the plat of West Duluth Fifth 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 0.6 foot building overhang (awning) 9'0" above grade, lying on the westerly 50.19 feet of the northwesterly side of building and a 4.9 foot building overhang (awning) lying on the northerly 50 feet of the northwesterly side of the building of said property and

A 1.0 foot building overhand (awning), 9'0" above grade, 70 feet in length on the south side of the building and

A 0.6 foot building overhang (awning) 9'0" above grade, lying on the southeasterly 100 feet of the building.

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 the permittees have in force insurance meeting the following requirements:

Commercial general liability insurance policy shall be maintained in force by permittees in an amount not less than \$1,200,000 for bodily injuries and in an amount not less than \$400,000 for property damage or \$1,200,000 single limit coverage. Such coverage shall

include all permittees' activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittees. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 3. That this permit shall expire on July 1, 2009, for any purpose whatsoever, unless prior to such date, the permittees file with the city clerk certificates of insurance evidencing that the permittees have in force insurance meeting the following requirements:

Commercial general liability insurance policy shall be maintained in force by permittees in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage. Such coverage shall include all permittees' activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittees. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 4. 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 30 days 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 5. That upon the giving of the notice of termination as aforesaid, the permittees shall remove all fixtures and pertinences of every kind whatsoever thereto from the tract of land described above within said 30 days, 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 6. 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, its employees, agents, and assigns and agree that such fixed awnings shall be so constructed and at all times maintained so as in no way to interfere with or damage any portion of the sidewalk, or sewer, water mains, gas mains, pipes, conduits, or other public utilities now or to be hereinafter located in any part of said Grand Avenue and Ramsey Street rights-of-way and agree that the city of Duluth shall not be liable for damage caused to such fixed awnings while the city is engaged in making repairs to the public sidewalks or public utilities or during snow removal operations, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, water mains, pipes, conduits, or other public utilities made necessary by the presence of fixed awnings in said Grand Avenue and Ramsey Street rights-of-way.

Section 7. The permittees shall, at its expense, protect, support, temporarily disconnect, relocate in the same street, alley or public place, or remove from the street, alley or public place, any property of the grantee when required by the proper city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines

and tracks, the installation or repair of any other type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 8. The permittees shall further observe the following conditions:

(a) This permit shall be in effect until the property currently held by Mr. D's Bar & Grill, is transferred to another party, at which time the permit shall expire;

(b) This permit is subject to revocation by a resolution of the city council and 14 days notice to the permittees for failure to maintain the terms and conditions of this permit or at the discretion of the city;

(c) Fixed awnings shall be limited to the designated area shown on page III I 5 of the December 11, 2007 staff report to the planning commission (Public Document No. 08-0211-31);

Section 9. The term of this permit shall expire on June 1, 2020.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 23, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

Passed February 11, 2008

Approved February 11, 2008

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9886

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,475,000 GENERAL OBLIGATION AERIAL LIFT BRIDGE IMPROVEMENT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01 The city council has determined it to be necessary and expedient and in the public interest that capital restorations be made to the Aerial Lift Bridge.

1.02 Under the provisions of Minnesota Laws 1974, Chapter 130, the city council may by ordinance provide for the issuance of general obligation bonds to provide the funds necessary to match state, private or federal grant funds for projects within the city's boundaries, which bonds are to be supported by the full faith and credit of the city and are to be issued subject to the provisions of Minnesota Statutes, Section 475, except that they may exceed the limitations in Minnesota Statutes, Section 475.53, by an amount not to exceed \$2,000,000, and they may not be issued if the city's contribution to the project, including the proceeds of the bonds, exceeds 60 percent of the total project cost where such contribution is used to match state or federal grants, or 70 percent where it is used to match government and private grants, or 80% where it is used to match private grants alone. The project is of the nature contemplated by said law. The city of

Duluth has been awarded a \$1,000,000 grant of state funds pursuant to Minnesota Laws 2005, Chapter 20, Section 18, subd. 7, for capital restoration of the Aerial Lift Bridge, and it is estimated that such funds, together with the proceeds of bonds issued by the city in an amount not to exceed \$1,475,000, will be sufficient to pay the total project costs, and that the amount of the city's contribution, from the proceeds of the bonds or otherwise, will not exceed the limitations set forth in said law.

1.03 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation Aerial Lift Bridge improvement bonds of the city of Duluth in an amount not to exceed \$1,475,000, 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.

Section 2. TERMS OF BONDS.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the provisions of Minnesota Statutes, Chapter 475 and of Laws 1974, Chapter 130, and of other applicable laws.

Section 3. REVENUES AND ACCOUNTS.

3.01 The city has created and maintains the Aerial Lift Bridge project account in the Permanent Improvement Fund No. 411 to which there shall be credited all or a portion of the proceeds of the bonds, as provided by council resolution, together with the grant funds and any additional funds which may be available and are appropriated for the restoration program or which may be advanced to such account on condition that such amounts be reimbursed from bond proceeds.

3.02 The city council may, by resolution or resolutions, establish such further accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. TAX LEVY.

4.01 There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the city of Duluth, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on such bonds as such principal and interest respectively become due. Until the bonds to be issued hereunder are fully paid or duly called for redemption, the city will also maintain a separate 2008 aerial lift bridge improvement bond debt service account within the debt service fund created by Section 54 of the City Charter, to be used solely for the payment of the interest and the principal, respectively, as such principal and interest become due and payable, on the bonds issued hereunder and on any other bonds which have been or may be issued and made payable from said account. If the balance is ever insufficient to pay all principal and interest then due on the bonds issued hereunder, the treasurer shall nevertheless provide sufficient money from any other funds of the city which are available for that purpose, and such other funds shall be reimbursed from such debt service account when the balance therein is sufficient. All proceeds of said taxes are hereby appropriated and shall be paid when collected into such account. Said

taxes shall be irrevocable until the bonds and interest are fully paid, except that if the city council in any year shall make an irrevocable appropriation to said account of monies actually on hand, the city clerk shall certify to the county auditor of St. Louis County the fact and amount thereof, and the county auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared. After this ordinance has been published and becomes effective, the city council shall by resolution fix the precise amounts of such tax levies to be placed upon the tax rolls for each of the respective years required to comply with the provisions of this ordinance.

Section 5. CERTIFICATE OF PROCEEDINGS.

5.01 The city clerk is directed to file with the county auditor of St. Louis County a certified copy of this ordinance, and such other information as the county may require, and to obtain from the county auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

5.02 The officers of the city and the county auditor are authorized and directed to prepare and furnish to the purchasers of the bonds, and to bond counsel, certified copies of all proceedings and records of the city relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds as such facts appear from the official books and records in the officers' custody or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the city as to the correctness of the facts recited therein and the action stated therein to have been taken.

Section 6. EFFECTIVE DATE.

6.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 23, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, and President Reinert -- 8

Nays: Councilor Stauber -- 1

Passed February 11, 2008
Approved February 11, 2008
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9887

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$3,506,250 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. The city has contracted for the purchase of equipment and installation of an automated meter reading system (the "AMRS") for the joint benefit of the municipal water utility, the municipal sewer utility and the municipal gas utility. The portion of the AMRS allocable to the municipal sewer utility is herein referred to as the "project."

1.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal sewer utility, and determines it is necessary to issue General obligation sewer utility revenue bonds in the maximum amount of \$3,506,250 for the purpose of paying costs of the project, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The city has heretofore issued and sold the following: 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 \$130,000; 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 \$890,000; general obligation utilities facility bonds dated September 1, 2002, the sewer utility portion of such bonds now outstanding in the amount of \$1,458,000; general obligation utilities revenue bonds dated December 1, 2002, the sewer utility portion of such bonds now outstanding in the amount of \$1,330,000; 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 \$385,000; general obligation utilities revenue note dated August 25, 2003, the sewer utility portion of such note issued in the amount of \$100,000; general obligation sewer utility revenue note dated December 12, 2003, issued in the amount of \$1,179,115; general obligation sewer utility revenue bonds dated December 1, 2004, now outstanding in the amount of \$3,405,000; general obligation sewer utility revenue bonds dated December 19, 2005, now outstanding in the amount of \$3,170,000; general obligation sewer utility revenue bonds dated December 19, 2006, now outstanding in the amount of \$900,000; general obligation sewer utility revenue bonds dated December 13, 2007, now outstanding in the amount of \$2,120,000; general obligation sewer utility revenue note dated July 12, 2007, issued in the amount of \$2,042,350; and general obligation water and sewer utility revenue refunding bonds dated December 13, 2007, the sewer utility portion of such bonds now outstanding in the amount of \$1,326,113. 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 December 1, 1998, December 1, 2001, September 1, 2002, December 1, 2002, March 1, 2003, December 12, 2003, December 1, 2004, December 19, 2005, December 19, 2006, July 12, 2007 and December 13, 2007.

1.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation sewer utility revenue bonds of the city of Duluth in the maximum amount of \$3,506,250 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.

1.05 The city reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the municipal sewer utility for the payment thereof, when authorized in accordance with law and the City Charter and determined by the city council to be necessary for the improvement of the municipal sewer utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

Section 2. TERMS OF BONDS.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions, and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such manner and at such time or times as shall be deemed in the public interest, all in accordance with the provisions of Minnesota Statutes, Chapter 475, and other applicable laws.

Section 3. REVENUES AND ACCOUNTS.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and amounts required to pay the normal, and current operating expenses and to maintain the municipal sewer utility and also to produce net revenues 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: March 23, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert and President Reinert -- 7

Nays: Councilors Krause and Stauber -- 2

Passed February 11, 2008
Approved February 11, 2008
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9888

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$3,825,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL WATER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Section 444.075, and Chapter 475 of Minnesota Statutes and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal water utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal water utility pledged for their payment. The city has contracted for the purchase of equipment and installation of an automated meter reading system (the "AMRS") for the joint benefit of the municipal water utility, the municipal sewer utility and the municipal gas utility. The portion of the AMRS allocable to the municipal water utility is herein referred to as the "project."

1.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal water utility, and determines that it is necessary to issue general obligation water utility revenue bonds in the maximum amount of \$3,825,000 for the purpose of paying costs of the Project, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The city has heretofore issued and sold the following: general obligation utilities facility bonds dated September 1, 2002, the water utility portion of such bonds now outstanding

in the amount of \$1,232,000; general obligation utilities revenue bonds dated December 1, 2002, the water utility portion of such bonds now outstanding in the amount of \$1,005,000; general obligation water and sewer utilities revenue bonds dated March 1, 2003, the water utility portion of such bonds now outstanding in the amount of \$190,000; general obligation utilities revenue note dated August 25, 2003, the water utility portion of such note issued in the amount of \$870,000; general obligation water utility revenue note dated July 23, 2004, issued in the amount of \$1,971,532; general obligation utilities revenue bonds dated December 19, 2006, the water utility portion of such bonds now outstanding in the amount of \$1,070,000; and general obligation water and sewer utility refunding revenue bonds dated December 13, 2007, the water utility portion of such bonds now outstanding in the amount of \$948,887. Under the provisions of the ordinances authorizing said bonds and notes, the city reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds and notes dated September 1, 2002, December 1, 2002, March 1, 2003, August 25, 2003, July 23, 2004, December 19, 2006, and December 13, 2007.

1.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation water utility revenue bonds of the city of Duluth in the maximum amount of \$3,825,000, 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 and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal water utility. Net revenues are defined as sums from time to time within the water utility operating account within the water utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal water utility and to maintain such reasonable reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

1.05 The city reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the municipal water utility for the payment thereof, when authorized in accordance with law and the City Charter and determined by the city council to be necessary for the improvement of the municipal water utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

Section 2. TERMS OF BONDS.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the authority recited in Section 1.01 of this ordinance.

Section 3. REVENUES AND ACCOUNTS.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal water utility at the times and amounts required to pay the normal, reasonable and

current operating expenses and to maintain the municipal water utility and also produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

3.02 The city council shall, by further resolution or resolutions, establish appropriate accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. CERTIFICATE OF PROCEEDINGS.

4.01 The city clerk is directed to file with the county auditor of St. Louis County a certified copy of this ordinance, and such other information as the county may require, and to obtain from the county auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

4.02 The officers of the city and the county auditor are authorized and directed to prepare and furnish to the purchasers of the bonds, and to bond counsel, certified copies of all proceedings and records of the city relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds as such facts appear from the official books and records in the officers' custody or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the city as to the correctness of the facts recited therein and the action stated therein to have been taken.

Section 5. EFFECTIVE DATE.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 23, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert and President Reinert -- 7

Nays: Councilors Krause and Stauber -- 2

Passed February 11, 2008
Approved February 11, 2008
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9889

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$3,293,750 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL GAS 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 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 gas 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 gas utility pledged for their payment. The city has contracted for the purchase of equipment and installation of an automated meter reading system (the "AMRS") for the joint benefit of the municipal water utility, the municipal sewer utility and the municipal gas utility. The portion of the AMRS allocable to the municipal gas utility is herein referred to as the "project."

1.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal gas utility, and determines it is necessary to issue general obligation gas utility revenue bonds in the maximum amount of \$3,293,750 for the purpose of paying costs of the project, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The city has heretofore issued and sold the following: general obligation gas and sewer utilities revenue bonds dated December 1, 2001, the gas utility portion of such bonds now outstanding in the amount of \$3,560,000; general obligation utilities facility bonds dated September 1, 2002, the gas utility portion of such bonds now outstanding in the amount of \$1,553,000; general obligation utilities revenue bonds dated December 1, 2002, the gas utility portion of such bonds now outstanding in the amount of \$1,040,000; general obligation gas utility revenue bonds dated December 1, 2003, now outstanding in the amount of \$4,800,000; and general obligation utilities revenue bonds dated December 19, 2006, the gas utility portion of such bonds now outstanding in the amount of \$1,135,000. Under the provisions of the ordinance authorizing said bonds, the city reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds dated December 1, 2001, September 1, 2002, December 1, 2002, December 1, 2003, and December 19, 2006.

1.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation gas utility revenue bonds of the city of Duluth in the maximum amount of \$3,293,750, 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 gas utility. Net revenues are defined as sums from time to time within the gas utility operating account within the gas 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 gas 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.

1.05 The city reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the municipal gas 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 gas 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 gas utility at the times and amounts required to pay the normal, and current operating expenses and to maintain the municipal gas 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: March 23, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert and President Reinert -- 7

Nays: Councilors Krause and Stauber -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed February 11, 2008
Approved February 11, 2008
DON NESS, Mayor

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ORDINANCE NO. 9890

AN ORDINANCE GRANTING TO DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND OCCUPY A BUS SHELTER ON GARFIELD AVENUE ACROSS FROM THE GOODWILL STORE IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH CONCURRENT USE PERMIT.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to Duluth Transit Authority, their successors and interests, referred to herein as the permittees, to construct and occupy a bus shelter on the sidewalk of Garfield Avenue described as follows:

Shelter is located on the east side of Garfield Avenue. Shelter size including roof is eight feet deep and 12 feet long. The southern end of the shelter starts 83 feet from the centerline of the vacated Nelson Street OR 65 feet from the northern curblineline of the southern entrance to the Charter property and 7.5 feet from the curblineline of Garfield Avenue.

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 the permittees have in force insurance meeting the following requirements:

A commercial general liability insurance policy shall be maintained in force by permittees in an amount not less than \$1,200,000 for bodily injuries and in an amount not less than \$400,000 for property damage or \$1,200,000 single limit coverage. Such coverage shall include all permittees' activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittees. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 3. That this permit shall expire on July 1, 2009, for any purpose whatsoever, unless prior to such date, the permittees file with the city clerk certificates of insurance evidencing that the permittees have in force insurance meeting the following requirements:

A commercial general liability insurance policy shall be maintained in force by permittees in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage. Such coverage shall include all permittees' activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittees. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 4. 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 30 days 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 5. That upon the giving of the notice of termination as aforesaid, the permittees shall remove all fixtures and pertinences of every kind whatsoever thereto from the tract of land described above within said 30 days, 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 6. 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, its employees, agents, and assigns and agree that such bus shelter shall be so constructed and at all times maintained so as in no way to interfere with or damage any portion of the sidewalk, or sewer, watermains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said Garfield Avenue Street right-of-way and agree that the city of Duluth shall not be liable for damage caused to such bus shelters while the city is engaged in making repairs to the public sidewalks or public utilities or during snow removal operations, 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 bus shelter in said Garfield Avenue right-of-way.

Section 7. The permittees shall, at its expense, protect, support, temporarily disconnect, relocate in the same street, alley or public place, or remove from the street, alley or public place, any property of the grantee when required by the proper city officials by reason of traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any other type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 8. The permittees shall further observe the following conditions:

- (a) A concrete sidewalk shall be installed between the existing sidewalk and curb;
- (b) Bus shelters shall be durable for cleaning and security purposes;
- (c) The permitted exterior furnishings located such that a public pedestrian walkway shall be maintained at all times that is not less than four feet in width;
- (d) Snow is to be removed from all abutting sidewalks to provide a clear passageway to the buses of at least 48 inches (four feet) within 24 hours after the end of every snowfall;
- (e) That the placement of exterior furnishings shall be located according to the criteria above;
- (f) That permittees shall be responsible for policing refuse and removing debris and other waste from the bus shelters;
- (g) That the applicant be on notice that this permit is not exclusive and that the city may require the permittees to remove the exterior furnishings for specific events, or closed for specific events, conducted in the Superior Street area; the areas described above shall be open to the general public, the general public shall have the right to occupy bus shelters in the area subject to this permit, so long as said members of the general public are orderly and violate no provisions of the law;

(h) This permit shall be in effect until the bus shelter currently held by the Duluth Transit Authority is transferred to another party, at which time the permit shall expire;

(l) This permit is subject to revocation by a resolution of the city council and 14 days notice to the permittees for failure to maintain the terms and conditions of this permit or at the discretion of the city;

(j) That any alterations to the approved plans that do not alter major elements of the plan may be approved by the director of planning and development without further planning commission or city council action; however, no such administrative approval shall constitute a variance from the provisions of City Charter, Chapter XIII, Section 100, or Chapter 45, Section 45-4.1, of the City Legislative Code;

(k) There shall be a maximum number of one bus shelter and shall be limited to the designated area shown on pages III E \$ of the January 8, 2008, staff report to the planning commission Public Document No. 08-0211-32.

Section 9. The term of this permit shall expire on April 10, 2025.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 23, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

Passed February 11, 2008
Approved February 11, 2008
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9891

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, ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT, TO C-5, PLANNED COMMERCIAL DISTRICT, THREE ACRES OF PROPERTY ON THE NORTH SIDE OF CENTRAL ENTRANCE BETWEEN MYRTLE STREET/ ANDERSON ROAD AND MIDAS SERVICE CENTER (ADDRESS/ CMRA).

The city of Duluth does ordain:

Section 1. That Plate No. 28 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 at end of meeting]

(Reference Planning Commission File No. 07148)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Section 2. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: March 23, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

Passed February 11, 2008
Approved February 11, 2008
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9892

BY COUNCILOR FEDORA:

AN ORDINANCE AMENDING CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED; ADDING ARTICLE XXXIV - MINIMUM REQUIREMENTS FOR A PHYSICAL DEVELOPMENT FINANCED BY CITY.

The city of Duluth does ordain:

Section 1. That the Section 2 of the Duluth City Code, 1959, as amended, be amended by adding a new Article XXXIV to read as follows:

Article XXXIV. Regulation of Physical Development--
Statement of Sources and Uses.

Sec. 2-179. Policy.

It is the policy of the city of Duluth to engage in appropriate physical development activities, but only in compliance with law, this ordinance, and reasonable standards for the honest disclosure of costs and revenue sources to the public.

Sec. 2-180. Definitions.

(a) Application. Any document, including a city council resolution, the purpose of which is to authorize a physical development. It includes an agreement whereby the city agrees, as part of a development project, to alter or build public facilities, streets, sewers, or other physical improvements, including a tourist attraction, and the contract for actual construction of the improvement;

(b) Physical development or project. Construction, rehabilitation or alteration of real estate, including buildings, structures or infrastructure, whether or not for public use, which is planned in whole or in part by city of Duluth funds or subsidy, or funds controlled by city of Duluth;

(c) Statement of sources and uses. A document, on a form approved by the chief administrative officer, which contains the following information about the physical development:

(1) The estimated actual amount and use of each expenditure for the physical development;

(2) The amount and source, by fund if applicable, of each revenue that will be used to pay the expenditures that equals the amount of the expenditures referred to in paragraph (1) above;

(3) The amount of the total fee charged by the developer as a developer's fee for doing the project.

Sec. 2-181. Statement of sources and uses required.

Whenever a physical development application that has an estimated actual total cost in excess of \$100,000 is presented for approval to any elected official, city board or commission, Duluth economic development authority, or city council, it shall have attached to it a statement of sources and uses (which may be in the statement of purpose of a resolution) that substantially conforms to this Article. The city council shall not vote on any application, or part or amendment of one, unless the most current statement of sources and uses applicable to the project is available as a public document.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: March 23, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

Passed February 11, 2008
Approved February 11, 2008
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9893

AN ORDINANCE ALIENATING CERTAIN PROPERTY IN THE CENTRAL HILLSIDE AND AUTHORIZING SALE OF SAME TO RUSSELL STEWART FOR \$2,860.

The city of Duluth does ordain:

Section 1. That the city hereby designates the property described in Section 2 below as being surplus to the city's future needs, and hereby declares its intention to alienate its interest in same.

Section 2. That 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 Russell Stewart for \$2,860 to be deposited in General Fund 100-700-1420-4640, and to execute all documents necessary with regard to said conveyance:

Southerly 25.65 feet except easterly 100 feet of Lot 34, West Fifth Street, DULUTH PROPER FIRST DIVISION,

and

All of Lot 34 except the southerly 51.65 feet, West Fifth Street, DULUTH PROPER FIRST DIVISION.

Section 3. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: March 23, 2008)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Krause -- 1

ATTEST:

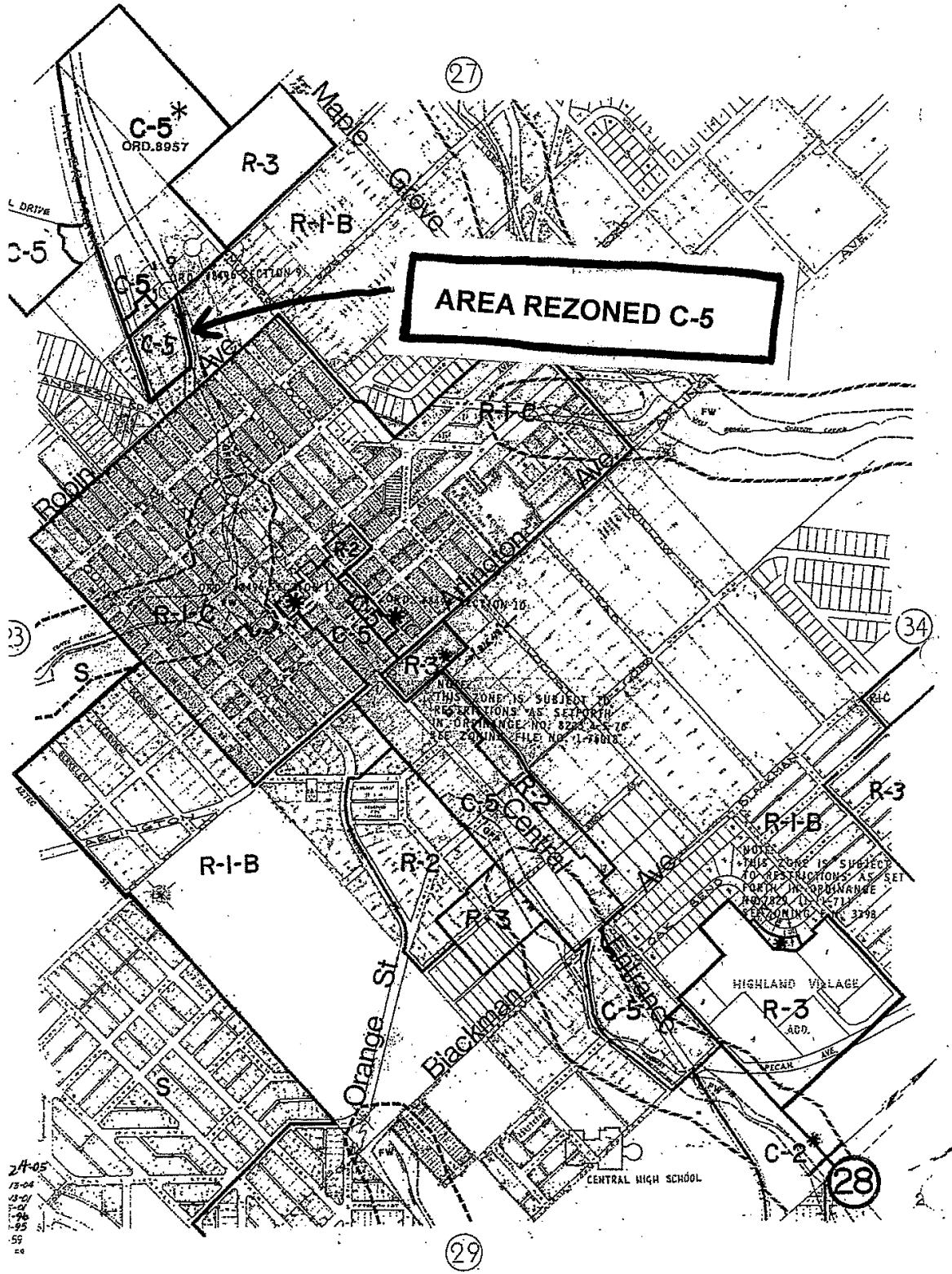
JEFFREY J. COX, City Clerk

Passed February 11, 2008

Approved February 11, 2008

DON NESS, Mayor

- - -



OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, February 26, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Absent: Councilor Krause -- 1

- - -

The minutes of council meetings held on December 3, 13 and 17, 2007, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0226-11 Spirit Lake Marina, by William Burns, attorney, presentation regarding proposed special use permit to William Stauduhar for a RV park and marina at 121 Spring Street (08-0149R and 08-0150R). -- Received

08-0226-12 The following communications regarding proposed extension of Lakewalk from 20th to 25th avenues East (08-0151R and 08-0171R): (a) Linda Balach; (b) Thomas Burns; (c) Alison Clarke; (d) Anne M. Cotter; (e) Louise Curnow; (f) Janet Draper; (g) Ellen Dunlap (h) Shawn Feralin; (i) David Gangeness; (j) John M. Glendenning, Jr.; (k) Karen Heisick; (l) Rose Hoene; (m) Tom Hollenhorst; (n) David W. Jensen; (o) Jerry Kimball; (p) Terry McCarthy; (q) Jeanne Mendoza; (r) R. Nelson; (s) Lezlie Oachs; (t) Steve O'Neil; (u) Clayton Oslund; (v) Peter and Linda Pichetti; (w) Katie Sandell; (x) William Saul; (y) Dianne Schmitz; (z) Mimi Stender; (aa) Nancy Swedlund; (bb) Bob and Myrna Ulland; (cc) Stewart Wilson. -- Received

08-0226-13 The following communications regarding the proposed ordinance pertaining to concurrent use permits for expansion of alcoholic beverage serving areas (07-086-O): (a) Canal Park Business Association; (b) Grandma's, Inc. -- Received

- - -

REPORTS FROM OTHER OFFICERS

08-0226-15 Assessor letters regarding confirmation of assessment roll levied to defray the assessable portions of 2007 street improvement program (Lakeside Contract 7091, assessable: \$369,675.37; Duluth Heights Contract 7092, assessable: \$211,068.18). -- Received

08-0226-14 Finance director submitting the following data regarding retiree healthcare: (a) Actuarial valuation of June 1, 2007; (b) Comparison of actuarial data for years 2002, 2005 and 2007. -- Received

08-0226-01 Parks and recreation department director rental agreement with Amanda N. Podgorsek for residential dwelling unit located at Duluth Heights Community Recreation Center, 33 West Mulberry Street, pursuant to Section 2-35, Duluth City Code. -- Mayor for execution

- - -

REPORTS OF BOARDS AND COMMISSIONS

08-0226-02 Alcohol, gambling and tobacco commission minutes of December 5, 2007, meeting. -- Received

08-0226-03 Commission on disabilities minutes of January 2, 2008, meeting. -- Received

08-0226-04 Duluth airport authority balance sheet of November 30, 2007. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

08-0226-05 Duluth human rights commission minutes of January 9, 2008, meeting. -- Received

08-0226-06 Entertainment and convention center authority minutes of February 11, 2008, building committee meeting. -- Received

08-0226-07 Housing and redevelopment authority minutes of September 25, 2007, meeting. -- Received

08-0226-08 Parking commission minutes of February 12, 2008, meeting. -- Received

08-0226-09 Planning commission:

(a) Minutes of January 8, 2008, meeting;

(b) Recommendations regarding proposed ordinances amending the Duluth City Code, 1959, as amended:

(1) 07-083-O, Section 44-14, pertaining to regulation of illumination of signs;

(2) 07-084-O, Section 29A-32, relating to rental licensing;

(3) 07-086-O, sections 45-103 and 8-54, pertaining to concurrent use permits for expansion of alcoholic beverage serving areas. -- Received

08-0226-10 Technical design advisory committee for DWMX-D annual report for 2007. -- Received

- - -

At this time, 7:10 p.m., Councilor Krause took his seat.

- - -

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

RESOLVED, that the proper city officials are authorized to enter into a first amendment to City Contract No. 20449, substantially in the form of that on file with the city clerk as Public Document No. 08-0226-16, between the city and Van Iwaarden Associates for actuarial services related to retiree benefits, modify the services to be provided and increasing the amount to be paid thereunder to \$22,376 from Fund 630, Agency 036, Organization 1650, Object 5441.

Resolution 08-0153 was unanimously adopted.

Approved February 26, 2008

DON NESS, Mayor

- - -

RESOLVED, that the assessment roll levied to defray the assessable portion of 2007 SIP for Duluth Heights (Contract # 7092; assessable amount: \$211,068.18) to be deposited in Fund 330, is hereby confirmed.

Resolution 08-0162 was unanimously adopted.

Approved February 26, 2008

DON NESS, Mayor

- - -

RESOLVED, that the assessment roll levied to defray the assessable portion of 2007 SIP for Lakeside is set forth below:

- (a) Contract # 7091; assessable amount: \$351,360.37, to be deposited in Fund 330;
- (b) Contract # 7091; assessable amount: \$18,315, to be deposited in Fund 325;

and that this assessment roll is hereby confirmed.

Resolution 08-0163 was unanimously adopted.

Approved February 26, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Insight Public Sector, Inc., for the purchase and delivery of hardware and related products as needed in year 2008 in accordance with state of Minnesota Contract #436388, Release C-813(5), specifications and pricing, not to exceed the budget allocation of \$80,000, payable from various funds, departments/agencies, organizations, objects.

Resolution 08-0146 was unanimously adopted.

Approved February 26, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Hewlett-Packard Company for the purchase and delivery of hardware and related products as needed in year 2008 in accordance with state of Minnesota Contract #432981, Release C-874(5), specifications and pricing, not to exceed the budget allocation of \$80,000, payable from various funds, departments/agencies, organizations, objects.

Resolution 08-0147 was unanimously adopted.

Approved February 26, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Software House International for the purchase and delivery of computer software products as needed in year 2008 in accordance with state of Minnesota Contract #436392, Release C-816(5), specifications and pricing, not to exceed the budget allocation of \$100,000, terms net 30, FOB destination, payable from various funds, departments/agencies, organizations, objects.

Resolution 08-0164 was unanimously adopted.

Approved February 26, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of land use supervisor, which were approved by the civil service board on February 5, 2008, and which are filed with the city clerk as Public Document No. 08-0226-17, are approved; that said classification shall be subject to the city's collective bargaining unit with its supervisory unit employees; and that pay range for said classification shall be ranges 1080-1085. 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 08-0169 was unanimously adopted.

Approved February 26, 2008

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

- - -

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 (FN 07181, 1/9/2008 list):

Parcel ID and legal description	Location	Reason
010-0150-00090 Atlantic Avenue Addition Block 2, Lots 3 thru 13 TRACT #1	lower side of unbuilt West 12th Street, west of 28th Avenue West (Lincoln Park)	needed for city excavation fill facility, future coordinat- ed development site
010-0150-00200 Atlantic Avenue Addition Block 2, Lots 14 thru 29 TRACT #2	upper side of unbuilt West 11th Street, west of 28th Avenue West (Lincoln Park)	needed for city excavation fill facility, future coordinat- ed development site
010-1350-15160 Duluth Proper Third Division Block 171, Lots 19 thru 27, odd numbered lots TRACT #3	upper side of unbuilt West 11th Street, west of Harbor Highlands (Central Hillside)	needed by HRA for addition to Harbor Highlands public housing project
010-1350-15210 Duluth Proper Third Division Block 171, Lots 29 thru 31 TRACT #4	upper side of unbuilt West 11th Street, at unbuilt Second Avenue West (Cen- tral Hillside)	Clarkhouse Creek flows through the property, flood- plain protection
010-2690-00350 Duluth Lands in the City Section 26, Twn 51N, Rng 13W, W 1 ac of E 4 ac of E 1/2 of SW 1/4 of NE 1/4 of SW 1/4, Except Hwy Rt of Way TRACT #5	upper side of the Two Har- bors Expressway (Hwy 61) west of McDonnell Road (North Shore)	drainage ravine protection, steep slopes and erodible soils
010-2690-00360 Duluth Lands in the City Section 26, Twn 51N, Rng 13W, W 1 ac of E 3 ac of E 1/2 of SW 1/4 of NE 1/4 of SW 1/4, Except Hwy Rt-of-Way TRACT #6	upper side of the Two Har- bors Expressway (Hwy 61) west of McDonnell Road (North Shore)	drainage ravine protection, steep slopes and erodible soils

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Parcel ID and legal description	Location	Reason
010-2710-07940 Duluth Lands in the City Section 31, Twp 50N, Rng 14W N 1/2 of NW 1/4 of SW 1/4 TRACT #7	east side of Haines Road south of Berkeley Road (Piedmont Heights)	to be free-conveyed to the city for Piedmont ski trails, trail crosses property
010-4190-00070 Stewarts Addition to West Duluth Block 16, Lots 1 thru 24 TRACT #11	between the hairpin curve on 40th Avenue West/Haines Road and the DM&IR Rail- road (above Denfeld)	preservation of Skyline Parkway view shed as re- commended in the compre- hensive plan
010-4190-00310 Stewarts Addition to West Duluth Block 17, Lots 1 thru 12 TRACT #12	between the hairpin curve on 40th Avenue West/Haines Road and the DM&IR Rail- road (above Denfeld)	preservation of Skyline Parkway view shed as re- commended in the compre- hensive plan
010-4590-04480 Whitman Park Addition Block 27, Lots 1 thru 16, including part of vacated street and alley adjacent TRACT #17	above the hairpin curve on 40th Avenue West/Haines Road near Skyline Parkway (above Denfeld)	preservation of Skyline Parkway view shed as re- commended in the compre- hensive plan
010-4590-04640 Whitman Park Addition Block 28, Lots 1 thru 18, including part of vacated street and alley adjacent TRACT #18	above the hairpin curve on 40th Avenue West/Haines Road near Skyline Parkway (above Denfeld)	preservation of Skyline Parkway view shed as re- commended in the compre- hensive plan
010-4590-04820 Whitman Park Addition Block 29, Lots 1 thru 11, including part of vacated street and alley adjacent TRACT #19	above the hairpin curve on 40th Avenue West/Haines Road near Skyline Parkway (above Denfeld)	preservation of Skyline Parkway view shed as re- commended in the compre- hensive plan

Resolution 08-0166 was unanimously adopted.
Approved February 26, 2008
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

The city council finds the following:

(a) Ted Stocke of Trinity Development Group, LLC, has submitted to the city council a request to amend an approved low density planned development special use permit on 19 acres of property legally described as follows:

In the proposed plat of Coffee Creek Division, Block 6, Lots 5-22; Block 7, Lots 1-6; Block 8, Lots 1-2; Block 9, Lots 1-14; Block 10, Lots 1-14; Outlot D, Outlot E, and Outlot K;

(b) The amendment to the approved special use permit consists primarily of substituting 27 one-story townhome buildings (each containing two dwelling units) for the previously approved 27 two-story buildings (each containing two dwelling units);

(c) Said permit application was duly referred to the city planning commission for a study, report and public hearing held during the regular meeting on Tuesday, February 12, 2008, and the commission has subsequently reported its recommendation of conditional approval to the city council;

(d) The applicant's compliance with conditions set out in this permitting resolution will adequately protect the comprehensive plan and conserve and protect property values in the neighborhood and comply with City Code Section 50-32 (reference Planning Commission File No. 08003);

NOW, THEREFORE, BE IT RESOLVED, that a special use permit amendment is hereby granted to Ted Stocke and Trinity Development Group, LLC, for ten acres of housing (54 units in 27 two-unit buildings), 4.5 acres of open space and 4.5 acres of street rights-of-way and stormwater ponds on 19 acres of property located along Coffee Creek Boulevard and Mocha Way between Trinity Road and Java Lane, with the following terms and conditions:

(a) That the project be limited to, developed and maintained according to plans entitled, "Coffee Creek Park Development, LDPD Site Plan," and typical lot plans illustrated with the following documents: "Coffee Creek Park Development, Block 7 - Lots 1 and 2 - Grading Plan," "Coffee Creek Park Development, Block 9 - Lots 5 and 6 - Grading Plan," "Coffee Creek Park Development, Block 10 - Lots 13 and 14 - Grading Plan" all as submitted by MSA Professional Services, dated January 11, 2008, and identified as Public Document No. 08-0226-25;

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

Resolution 08-0167 was unanimously adopted.

Approved February 26, 2008

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city clerk requesting the vacation of that part of Milford Street between 70th Avenue West and 71st Avenue West and the vacation of the alley in Block 39 of Hunter & Markells Grassy Point Addition; and

(b) 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 (FN 07150); and the city planning commission found that the petitioned street and alley are useless, based on the finding that, because the petitioned street and alley end in the Saint Louis River, it is unlikely that the street or alley would ever be needed to serve additional development and that the petitioners own all of the land adjacent to the proposed vacation; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

(c) The planning commission, at its December 11, 2007, regular meeting, did approve, unanimously, vacating the street and alley petitioned for vacation; and

(d) That the city council of the city of Duluth approves the vacation of the following and as more particularly described on Public Document No. 08-0226-18:

(1) That part of Milford Street lying between the west line of 70th Avenue West and the east line of 71st Avenue West; and

(2) The alley in Block 39 of Hunter & Markells Grassy Point Addition; and

(e) That the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the street and alley to be vacated.

Resolution 08-0168 was unanimously adopted.

Approved February 26, 2008

DON NESS, Mayor

- - -

RESOLVED, that Resolution 07-0224 to Duluth Superior Erection, Inc., for the 2007 Downtown brick restoration be amended to increase the amount by \$26,000 for a new total of \$87,000, payable out of Permanent Improvement Fund 0411, Agency 035, Object 4503, City Project No. 0236TR.

Resolution 08-0142 was unanimously adopted.

Approved February 26, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Apex Mechanical Plumbing, Heating and Utilities for the construction of a new steamline extension to the Bell Building, 500 block of East Fourth Street, in accordance with plans and specifications and the contractor's bid of \$28,900, terms net 30, payable from the Steam Fund 540, Department/Agency 920, Organization 1499, Object 5530.

Resolution 08-0143 was unanimously adopted.

Approved February 26, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Stout Mechanical, Inc., for the construction of a new steamline extension to the SMDC Health System/Duluth Clinic building, East First Street, in accordance with plans and specifications and the contractor's bid of \$79,995, terms net 30, payable from the Steam Fund 540, Department/Agency 920, Organization 1499, Object 5530.

Resolution 08-0144 was unanimously adopted.

Approved February 26, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to amend and execute Agreement #20150 with the Duluth Entertainment Convention Center for the operation of the Minnesota Slip pedestrian draw bridge by:

(a) Adopting language which amends sections covering contract renewal and yearly increases; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

(b) Providing an amount not to exceed \$33,800 for year 2008, payable from the General Fund 100, Organization 1930-2310, Object 5455.

Said contract is to be substantially in the form of Public Document No. 08-0226-19 on file in the office of the city clerk.

Resolution 08-0145 was unanimously adopted.

Approved February 26, 2008

DON NESS, Mayor

- - -

RESOLVED, that Resolution 05-0046 awarding a contract to Camp, Dresser and McKee, Inc., (CDM) for engineering services for the development of a long term plan for the evaluation and elimination of sanitary sewer overflows in the city's sanitary sewer collection system be hereby amended to increase the contract amount for Phase III flow monitoring, modeling and analysis work for basins 15 through 22 and the Polk Street lift station in the amount of \$218,640, for a new total of \$586,013. The increase will be payable from the Sewer Bond Fund 0531, Agency 500, Object 5532, City Project No. 0511SN.

Resolution 08-0148 was unanimously adopted.

Approved February 26, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Groebner & Associates, Inc., for the purchase and delivery of various gas meter bars and related items for the department of public works and utilities in accordance with specifications and the vendor's low bid of \$25,818 plus \$1,678.17 sales tax for a combined total amount of \$27,496.17, terms net 25, FOB destination, payable from the Gas Fund 520, Department/Agency 500, Organization 1940-2410, Object 5227.

Resolution 08-0158 was unanimously adopted.

Approved February 26, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Nelson Dodge GMC for the purchase and delivery of three 2008 GMC Savana Model 3500 one-ton cargo vans in accordance with state of Minnesota Contract #438557, Release A-175(A), specifications and pricing for \$54,138.36 plus \$3,518.99 sales tax plus \$150 tax exempt plates and registration, for a total combined amount of \$57,807.35, terms net 30, FOB destination, payable as follows:

(a) \$13,295.69 from the Water Fund 510, Department/Agency 500, Organization 1905, Object 5580;

(b) \$44,511.66 from the Gas Fund 520, Department/Agency 500, Organization 1905, Object 5580.

Resolution 08-0159 was unanimously adopted.

Approved February 26, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with NorthStar Ford for the purchase and delivery of a 2008 Ford 350 one-ton 4X4 extended cab and chassis with service body in accordance with specifications and the vendor's low bid of \$30,717.75 plus \$1,996.65 sales tax plus \$150 tax-exempt plates and registration, for a combined total amount of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

\$\$32,864.40, terms net 30, FOB destination, payable from the Capital Equipment Fund 250, Department/Agency 015, Organization 2008, Object 5580, Project CE250-V801.

Resolution 08-0165 was unanimously adopted.
Approved February 26, 2008
DON NESS, Mayor

- - -

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following accessible parking zone is hereby established: on North 23rd Avenue West in front of 901 North 23rd Avenue West.

Resolution 08-0139 was unanimously adopted.
Approved February 26, 2008
DON NESS, Mayor

- - -

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following accessible parking zone is hereby established: on Albion Street in front of 5319 Albion Street.

Resolution 08-0140 was unanimously adopted.
Approved February 26, 2008
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Elk River Ford for the tax exempt purchase and delivery of six 2008 Ford Crown Victoria vehicles (to be used as fully marked police patrol cars) in accordance with state of Minnesota Contract #438386, Release A-174(5), specifications and pricing, for \$135,186, terms net 30, FOB destination, payable from the Capital Equipment Fund 0250, Department/Agency 015, Organization 2008, Object 5580, Project CE250-V803.

Resolution 08-0154 was unanimously adopted.
Approved February 26, 2008
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Elk River Chrysler for the purchase and delivery of three 2008 Dodge Durango SXT 4x4 flexible fuel sport utility vehicles in accordance with state of Minnesota Contract #438549, Release A-175(5), specifications and pricing, for \$63,912 plus \$4,154.28 sales tax plus \$150 tax exempt plates, for a total combined amount of \$68,216.28, terms net 30, FOB destination, payable from the Capital Equipment Fund 250, Department/Agency 015, Organization 2008, Object 5580, Project CE250-V803.

Resolution 08-0155 was unanimously adopted.
Approved February 26, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized to enter into an agreement with Duluth Superior Area Community Foundation to accept grant funding for the *Crimeview* community project in the amount of \$10,000, said agreement to be substantially in the form of Public

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Document No. 08-0226-20, on file in the office of the city clerk; grant funds to be deposited in Fund 215-200-2281-4270.

Resolution 08-0160 was unanimously adopted.
Approved February 26, 2008
DON NESS, Mayor

- - -

The following resolutions were also considered:

BE IT RESOLVED, that the city council of the city of Duluth approves the transfer of the following on sale intoxicating liquor license and issues an on sale Sunday license for the period ending August 31, 2008, subject to departmental approvals and the payment of sales and property taxes, to:

Zooch of Duluth, LLC (Teatro Zuccone, Café Zed, Zinema), 222 East Superior Street, with Keir Johnson, owner, transferred from JM & JK, Inc. (John's Red Lion Bar), 222 East Superior Street.

Resolution 08-0152 was adopted upon the following vote:

Yeas: Councilors Anderson, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Cuneo -- 1

Approved February 26, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a contamination investigation and RAP development grant from the Minnesota department of employment and economic development (DEED) in the amount of \$45,500 and to execute Grant Agreement No. CCGP-07-0023-Z-FY08 on file with the clerk as Public Document No. 08-0226-21 in connection therewith. Such funds shall be deposited into City Fund 255.

FURTHER RESOLVED, that the required local match to the granted funds, having a value of no less than 25 percent of investigation and RAP development costs and estimated at a total value of \$15,300, shall be provided in equal share by the Duluth economic development authority (DEDA) from its operating Fund 860 and by the IKONICS Corporation, contingent upon DEDA and IKONICS Corporation entering into a development agreement for the site. If such a development agreement is not executed, the required local match to the granted funds shall be provided in its entirety by the IKONICS Corporation.

BE IT FURTHER RESOLVED, that the city certifies that it will comply with all applicable laws and regulations as stated in all contract agreements it accepts.

Resolution 08-0161 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Fedora -- 1

Approved February 26, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a five-year contract with Lakehead Constructors, Inc., for miscellaneous mechanical, structural and rehabilitation repairs to the Minnesota Slip Pedestrian Bridge for the engineering division in accordance with specifications on its best value proposal, with task orders not to exceed \$115,198 for 2008, payable from Capital Improvement Fund 0450, Department/Agency 030, Organization 2005, Object 5530, City Project No. 0476TR, CP 2007-OT0714.

Resolution 08-0157 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Fedora -- 1

Approved February 26, 2008

DON NESS, Mayor

- - -

Resolution 08-0171, by Councilor Gilbert, endorsing a plan for extension of the Lakewalk, was introduced for discussion.

At this time, President Reinert moved Resolution 08-0151 up in the agenda to be considered.

Resolution 08-0151, adopting administration's recommendations for Lakewalk construction from 20th to 25th avenues East, was introduced by Councilor Stauber for consideration.

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

Judy Gordan and Grant Wilson supported the extension of the Lakewalk down by the water so everyone can access the rocks and beach, but opposed any footpath in front of the condominiums which would have direct sight into them. Mr. Wilson stated that the natural path that goes along the Lakeshore would not be as expensive to construct and that the condominium owners do not want to make it their own beach.

Phil Juskiewicz, Bob Lyman, Mark Bovee, Anita Stech, John Sanford, Alison Clarke, Bonnie Fuller-Kask, and Katie Sandell urged support of Resolution 08-0171 for the following reasons: the Lakewalk is important as it is the biggest attraction to Duluth; this issue was resolved by the council last fall; making the Lakewalk contiguous without a break would leave a legacy for future citizens of Duluth; access by the public to the lake needs to be preserved; whatever plan that constructs a Lakewalk next to Lake Superior between 20th and 23rd avenues East needs to be done now; the city has an obligation to the citizens of Duluth to finish the Lakewalk as planned; the condominium owners purchased their property with the knowledge of the Lakewalk in front of their place; family houses have sidewalks in front of them and it is wrong to try to please the condominium owners and compromise the public.

Alison Clarke, representing Neighborhood Planning District 7, stated that they have wanted and expected a standard Lakewalk trail along the shore from Canal Park up to 26th Avenue East and at their last meeting they supported tabling Resolution 08-0151. Ms. Clarke stated that from her own perspective she would like to see an Americans with Disabilities Act (ADA) approved ten foot wide asphalt trail along the shore that would give maximum access to the maximum number of persons which would be easily maintained in winter and should be in place wherever possible which would include 23rd to 25th avenues East.

Councilor Gilbert explained that Resolution 08-0171 would maintain the council's plan for the Lakewalk that was passed in June 2007 and that he is asking the council to reaffirm their commitment to that plan.

Councilor Gilbert moved to amend Resolution 08-0171 to add the following language to the end of the last paragraph:

“except that the footpath between 20th and 22nd avenues East shall be completed by this summer, pending investigation of future development options, particularly satisfaction of ADA requirements,”

which motion was seconded and failed upon the following vote:

Yeas: Councilors Anderson, Gardner and Gilbert -- 3

Nays: Councilors Cuneo, Fedora, Fosle, Krause, Stauber and President Reinert -- 6

Councilor Krause stated that putting the footpath down by the lake has the potential to be hazardous to users and the intent by the city to construct the Lakewalk was in the future. He added that there are more important needs in the city to use the money such as fixing up city buildings and the parks and recreation buildings.

Councilor Fedora stated that the Lakewalk should be gravel from 23rd to 25th avenues East to provide continuity between Beacon Point and The Ledges; creating an impervious path addresses the safety concerns of the grade for that portion of the Lakewalk.

Bob Bruce, director of planning and economic development department, reviewed that the city hired SEH to come up with a plan to connect the Lakewalk from 20th Avenue East to 25th Avenue East and that they developed three plans. He continued by saying that a fourth plan was devised that was endorsed by the council in 2007, and Resolution 08-0151 is a departure of the council action of June 25 by not recommending to blacktop in front of 23rd to 25th avenues East, but there is nothing to preclude that in the future. He explained that the resolution will not restrict access to the lake, does not eliminate the footpath and his memo presented four construction priority recommendations.

Councilor Anderson questioned if public access can be restricted without a developed trail in front of Beacon Point right now.

City Attorney Brown replied that until the city council does sufficiently act to indicate that it is exercising its easement, the land that is burdened by the easement remains owned by the property owners and they can deny public access to it.

Councilor Gardner questioned the need for an additional ten foot wide paved walkway on Water Street when there is already a sidewalk and instead spend the money for that project to acquire the property that the city does not own yet.

Mr. Bruce replied that it is a safety issue with the expected heavier Lakewalk usage and an improved and widened sidewalk would prevent people from spilling out onto the street.

Resolution 08-0171 was adopted as follows:

BY COUNCILOR GILBERT:

The city council finds:

- (a) The Lakewalk is one of the most used and beloved hallmarks of our city;
- (b) The Lakewalk should remain open to as many people as possible so they can continue to enjoy the wonder of Lake Superior;
- (c) The plan proposed by the administration and approved by the council on June 25, 2007, in Resolution 07-0446, known as Alternative #4, is workable, affordable and ready to implement, and is a sensible compromise between the interest of private homeowners and the public's right to use and enjoy the Lakewalk.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

NOW, THEREFORE, BE IT RESOLVED, that the council reaffirms its support of the design approved by the council on June 25, 2007, in Resolution 07-0446, known as Alternative #4, and requests that the administration begin implementing the plan as soon as possible.

Resolution 08-0171 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert and President Reinert -- 6

Nays: Councilors Fedora, Krause and Stauber -- 3

Approved February 26, 2008

DON NESS, Mayor

- - -

Resolution 08-0151 failed upon the following vote (Public Document No. 08-0226-24):

Yeas: Councilors Fedora and Stauber -- 2

Nays: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause and President Reinert -- 7

- - -

Resolution 08-0137, authorizing a first amendment to the agreement with the Duluth Superior Area Community Foundation regarding the Duluth legacy endowment fund, was introduced by Councilor Stauber for discussion.

Councilor Stauber stated that the Duluth Superior Area Community Foundation should consist of residents of Duluth when they are making decisions on what projects the money will be spent in Duluth.

Resolution 08-0137 was adopted as follows:

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. 08-0226-22, to the agreement with the Duluth Superior Area Community Foundation regarding the Duluth legacy endowment fund.

Resolution 08-0137 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner and Gilbert -- 5

Nays: Councilors Fedora, Krause, Stauber and President Reinert -- 4

Approved February 26, 2008

DON NESS, Mayor

- - -

Resolutions 08-0149 and 08-0150, approving and denying, respectively, a special use permit to William Stauduhar for a RV park and marina at 121 Spring Street, were introduced by Councilor Stauber for discussion.

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

Len Simich explained that their intent is to bring the marina back to a full functioning marina, which is very expensive, and the RV park will help generate money back into the site. He continued by saying that he is aware of the neighborhood controversy and has tried to get his information out to the neighborhood groups, will continue to do so and be a good neighbor and corporate citizen of Duluth.

Madonna Ohse stated she does not support this project as much money has been spent to restore the water of Lake Superior and this marina would have a negative impact on the lake and the environment. She also stated that variances under the water resource management ordinance should be an exception and a hardship and the applicant has not provided a hardship.

Patti Nadeau raised several questions that she felt needed to be answered before the council votes on this project.

Jim Esson, Kathy Esson and Bill Tusken expressed their support for the marina as this plan will eliminate the current rubbish, will deal with environmental issues and be a good thing for the neighborhood.

Judy King reviewed that she has to sell the marina as her family cannot maintain it anymore and the family wants the marina to stay and be true to the marina customers and neighborhood.

Bill Burns, representing the developer, stated that the hardship can be found with the age of the marina as it is 70 years old and the sea walls are collapsing, presenting a danger to the long term marina operation and the river. He continued by saying that the impervious surface will only be 30 percent by the insistence of the planning commission and in compliance with the water resource management ordinance.

Charles Andresen stated he represents the adjacent landowner who opposes the development as the RV park does not fit this location because it is zoned M-2, and there will be manufacturing going on during all hours of the day next to the RV park. He also stated that a hardship cannot be self created because the owner allowed the property to fall into disrepair, so a variance should not be granted.

To questioning from Councilor Gilbert, Mr. Brown replied that this variance request is from the water resources management ordinance, and it states a variance can be granted if hardship is shown. He continued by saying that hardship in this instance is defined as a situation when reasonable use of the property is not possible because of the application of the shoreland ordinance. He reviewed that case law states that a hardship can be shown when a landowner proposes a reasonable use and is not able to do it because of the application of the ordinance, and it is not necessary for the landowner to show it cannot be put to any reasonable use - only that the reasonable use he proposes cannot be used. Mr. Brown also stated that the problem has to be unique to this land and cannot be caused by the owner.

Councilor Fedora called the question, which motion was seconded and carried upon the following vote:

Yeas: Councilors Anderson, Fedora, Fosle, Gardner, Gilbert, Krause and Stauber -- 7

Nays: Councilor Cuneo and President Reinert -- 2

Resolution 08-0149 was adopted as follows:

The city council finds as follows:

(a) An application was filed with the city clerk requesting a special use permit for a RV park for property legally described as:

A parcel of land located in Government Lot 2, Section 26, and Government Lot 3, Section 23, Township 49 North, Range 15 West, of the Fourth Principal Meridian, St. Louis County, Minnesota, and in Douglas County, Wisconsin, and described as follows, to wit: commencing at a point in said Government Lot 3, where the established U.S. Government Harbor Line intersects the boundary line of the states of Minnesota and Wisconsin; thence southwesterly along said established Harbor Line 89.30 feet to the extended north boundary line of Rearrangement of Lenroot's Addition to Ironton, which point is the place of beginning; thence North 57 degrees 16 minutes 4 seconds west a distance of 44.28 feet to the boundary line between the states of Minnesota and Wisconsin as determined and marked by a survey made by a boundary commission appointed by the United States Supreme Court in Minnesota vs. Wisconsin, 258 U.S. 149, a map of which survey is on file in the office of the clerk of said court;

thence continuing north 57 degrees 16 minutes 4 seconds west a distance of 617.47 feet to a point; thence north 32 degrees 43 minutes 56 seconds east a distance of 70.00 feet to a point; thence north 57 degrees 2 minutes 44 seconds west 152.00 feet to a point; thence south 32 degrees 57 minutes 16 seconds west a distance of 239.41 feet to a point; thence south 57 degrees 2 minutes 44 seconds east a distance of 120.00 feet to a point; thence south 32 degrees 57 minutes 16 seconds west a distance of 270.00 feet to a point; thence north 57 degrees 2 minutes 44 seconds west a distance of 140.00 feet to a point; thence south 32 degrees 57 minutes 16 seconds west a distance of 214.00 feet to a point; thence south 57 degrees 2 minutes 44 seconds east to the established U.S. Government Harbor Line; thence northeasterly along said Harbor Line to the point of beginning.

The foregoing description is based upon a drawing dated February 24, 1978, over the signature of T. M. Black, which drawing is made a part hereof by reference (Public Document No. 08-0226-26).

EXCEPTING THEREFROM a parcel of land described as follows, to wit: commencing at a point in said Government Lot 3 where the established U.S. Government Harbor Line intersects the boundary line of the states of Minnesota and Wisconsin; thence southwesterly along said established Harbor Line 89.30 feet to the extended north boundary line of Lenroot's Addition; thence continuing southwesterly along said established Harbor Line 400 feet, more or less, to a point which is 122.00 feet northeasterly of the extended southwesterly pier facing the southwesterly most pier of Spirit Lake Marine, Inc., which point of beginning; thence northwesterly on a line perpendicular to the said established Harbor Line 350.00 feet to a point on said pier; thence southwesterly on a line parallel with said established Harbor Line 122 feet, more or less, to the point where said pier and the waters of the St. Louis River meet; thence southeasterly along the southwesterly edge of said pier to the said established Harbor Line; thence northwesterly along said established Harbor Line to the point of beginning; and

(b) Pursuant to Section 50-35(n) and Section 50-35(bb) of Article IV 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

(c) The planning commission, at its February 12, 2008, regular meeting, recommended approval of the requests with conditions; and

(d) The approval was made because of the city planning commission 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.

FURTHER RESOLVED THAT, the city council of the city of Duluth approves a special use permit for a RV park and marina (FN 07155), subject to the following conditions:

(a) A scaled site plan showing setbacks for each pad, road, building, parking area and other development is to be submitted prior to issuance of permits with subsequent approval by the planning director;

(b) Written approval from the fire department that the roads on the piers and throughout the proposed development are adequate for fire truck access;

(c) A wetland delineation is to be submitted for the wetland on the far southern edge of the development and adherence to applicable wetlands regulations prior to issuance of permits;

(d) Best management practices for the marina are to be developed as part of the management of the RV park and marina. These are to be submitted to the planning director for approval;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

(e) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the planning director without further planning commission or city council action; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50;

(f) Approvals and permits which are under the jurisdiction of the United States army corps of engineers are to be secured prior to start of the project and submitted to the city of Duluth planning and development department;

(g) Approvals and permits which are under the jurisdiction of the Minnesota department of natural resources are to be secured prior to the start of the project and submitted to the city of Duluth planning and development department;

(h) Approvals and permits which are under the jurisdiction of the Wisconsin department of natural resources are to be secured prior to the start of the project and submitted to the city of Duluth planning and development department;

(i) Project is to be constructed according to drawings titled "marina/RV resort conceptual plan" date stamped February 5, 2008, by the planning and development department and includes the following:

(1) Conceptual plan - sheet 1/9 dated 1/15/08 miscellaneous plan changes prepared by Bocht Engineering;

(2) Boundary topography survey - sheet 2/9 dated 5/23/07 prepared by Alta Survey Company;

(3) Site photos - sheet 3/9 dated 10/29/07 added sheet prepared by Bocht Engineering;

(4) Entire conceptual plan - sheet 4/9 dated 1/21/08 modify pier one prepared by Bocht Engineering;

(5) Site utilities - sheet 5/9 dated 1/15/08 revised pier two utilities prepared by Bocht Engineering;

(6) Pier one conceptual plan - sheet 6/9 dated 1/21/08 revised layout prepared by Bocht Engineering;

(7) Pier two conceptual plan - sheet 7/9 dated 1/21/08 revised detail prepared by Bocht Engineering;

(8) Parking / boat ramp conceptual plan - sheet 8/9 dated 10/29/07 miscellaneous changes prepared by Bocht Engineering; and

(9) Entrance road and common area conceptual plan - sheet 9/9 dated 10/29/07 miscellaneous changes prepared by Bocht Engineering;

(j) Approvals and permits which are under the jurisdiction of the St. Louis County health department are to be secured prior to start of the project and submitted to the planning and development department;

(k) Conditions as outlined by the Minnesota department of natural resources letter of February 12, 2008, are to be met.

Resolution 08-0149 was unanimously adopted.

Approved February 26, 2008

DON NESS, Mayor

- - -

Resolution 08-0150 failed unanimously (Public Document No. 08-0226-23).

- - -

Resolution 08-0156, authorizing Neighborhood Housing Services of Duluth, Minnesota, (NHS) to forgive community development block grant (CDBG) rehabilitation loans made under the property rehabilitation program, was introduced by Councilor Stauber for discussion.

Councilor Fedora stated that many homeowners in Duluth have problems making their monthly payments and Neighborhood Housing Services should remedy it on their own without asking the city for help.

Resolution 08-0156 was adopted as follows:

The city council of the city of Duluth hereby authorizes a partial forgiveness by NHS of the repayment of the Neighborhood Housing Services (NHS) CDBG loans in the amount of \$34,775, which is equal to 90 percent of the total NHS loans.

Resolution 08-0156 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Stauber and President Reinert -- 6

Nays: Councilors Fedora, Fosle and Krause -- 3

Approved February 26, 2008

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR KRAUSE

08-017 - AN ORDINANCE AMENDING SECTIONS 8-13, 8-35, 8-41, 8-42, 8-43, 8-44, 8-56 AND 8-63 AND REPEALING 8-29.5 OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING THE SALES OF INTOXICATING LIQUOR.

- - -

BY PRESIDENT REINERT

08-018 - AN ORDINANCE AMENDING SNOW EMERGENCY PARKING REGULATIONS CLARIFYING THE PARKING AFFECTED, AMENDING SECTIONS 33-97.1 AND 33-97.2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR FOSLE

08-016 (9894) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN THE ONEOTA AREA NEAR THE INTERSECTION OF 39TH AVENUE WEST AND SECOND STREET TO RMN LLLP FOR \$13,500.

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

- - -

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

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

- - -

ORDINANCE NO. 9894

AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN THE ONEOTA AREA NEAR THE INTERSECTION OF 39TH AVENUE WEST AND SECOND STREET TO RMN LLLP FOR \$13,500.

The city of Duluth does ordain:

Section 1. That the city hereby designates the property described in Section 3 below as being surplus to the city's future needs, and hereby declares its intention to alienate its interest in same.

Section 2. That because of its size and its location in relation to other parcels, said parcel not suitable to independent development and therefore the city council determines it is appropriate to sell it RMN LLLP as a adjacent property owner.

Section 3. That 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 RMN LLLP for \$13,500, its value as determined by the city assessor, and to execute all documents necessary with regard to said conveyance:

That parcel platted as public park lying south of the intersection of platted 39th Avenue West and platted Second Street in the Plat of HAZELWOOD ADDITION TO ONEOTA, on file in the office of the county recorder for St. Louis County, Minnesota.

Section 4. That proceeds of the sale shall be deposited in General Fund 100-700-1420-4640-02 and shall be used only for improvement or maintenance of park lands.

Section 5. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: April 6, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed February 26, 2008
Approved February 26, 2008
DON NESS, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 10, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on January 3, 7, 14 and 28, 2008, were introduced for approval.

Councilor Gardner moved for approval of all the minutes, with the amending of the January 7 minutes to Judge Heather Sweetland instead of Judge Gerry Martin, which motion was seconded and unanimously carried.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0310-01 Raymond W. Tiili, et al. (eight signatures), petition to vacate Wilbur Street between South Blackman Avenue and East Orange Street. -- Assessor

08-0310-10 Duluth Softball Players Association communication regarding proposed professional softball league management services contract with Michelle Hayko (08-0185R). -- Received

08-0310-09 The following communications regarding the proposed outreach gambling program contract with Lake Superior Area Family Services (08-0194R): (a) Gamblers Intervention Services; (b) Northstar Problem Gambling Alliance. -- Received

08-0310-11 The following communications regarding the proposed service agreement with Duluth Sister Cities International, Inc. (08-0064R): (a) Frank Bo, mayor of Vaxjo, Sweden; (b) Lynn Fena; (c) John Powers. -- Received

08-0310-12 The following communications regarding rental licensing (08-0196R, 08-022-O, 08-023-O): (a) Campus Neighbors; (b) Kim and Jim Parmeter. -- Received

- - -

REPORTS FROM OTHER OFFICERS

08-0310-02 Assessor letter of sufficiency of petition to vacate Wilbur Street between South Blackman Avenue and East Orange Street.-- Received

08-0310-03 Clerk applications to the Minnesota gambling control board for exemption from lawful gambling licenses (raffles) from: (a) Duluth Sister Cities International on May 9, 2008; (b) Marshall School on May 2, 2008; (c) Minnesota Citizens Federation - Northeast on July 26, 2008. -- Received

08-0310-04 Parks and recreation department director minutes of Lake Superior Zoological Society January 23, 2008, meeting. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

08-0310-13 Alcohol, gambling and tobacco commission minutes of: (a) January 2; (b) February 6, 2008, meetings. -- Received

08-0310-05 Board of zoning appeals minutes of: (a) October 23; (b) November 27, 2007; (c) January 22, 2008, meetings. -- Received

08-0310-06 Duluth transit authority: (a) Comparative revenue analysis for December 2007; (b) Minutes of January 2, 2008, meeting. -- Received

08-0310-07 Housing and redevelopment authority of Duluth minutes of: (a) November 27; (b) December 18, 2007, meetings. -- Received

08-0310-08 Library board minutes of January 22, 2008, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Irene Swarz expressed concern about senior transportation needs for handicapped van service. She noted that recently St. Louis County has discontinued this service.

- - -

Neal Enzenauer expressed his concerns over how the rental housing ordinance is adversely affecting his ability to sell a house he owns.

- - -

Nancy Nilsen, chair of the Duluth School Board, addressed the misunderstandings and misinformation relative to the city council request to meet with the school district. She stated that the board is willing to meet with the council after an agenda is developed in order for it to be an efficient and effective meeting.

- - -

Susie Lannon commented on how the rental housing ordinance has a bad affect on a lot of individuals because they cannot either sell their houses or get a rental license. She felt that the owners of the rental houses should be held accountable.

- - -

Ronald Miller spoke in support of Duluth following its prior resolution of being a sustainable community by creating a moratorium on parking ramp construction, to reduce the carbon footprint.

- - -

Ryan Mears spoke in support of controlling health institutions' disposal of medications into the sanitary system.

- - -

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

RESOLVED, that city officials are hereby authorized to contract with Liscomb-Hood-Mason Company for property insurance from February 16, 2008, through February 15, 2009, covering 40 city-owned structures, miscellaneous equipment, and business personal property in accordance with its quote of \$87,886.99, terms net 30, payable as follows:

(a) \$9,378.87 from the Duluth economic development authority Fund 866, Agency 860, Object 5360;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

(b) \$78,508.12 from the Self-Insurance Fund 610, Agency 036, Organization 1650, Object 5360.

Resolution 08-0174 was unanimously adopted.
Approved March 10, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute and implement an addendum to the agreement with ClearScript, which will permit that company to provide medication therapy management services to the city's group health plan effective March 11, 2008, with no increase in administrative fee paid to ClearScript, which agreement is on file in the office of the city clerk as Public Document No. 08-0310-14.

Resolution 08-0183 was unanimously adopted.
Approved March 10, 2008
DON NESS, Mayor

- - -

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 Sites

Second Harvest, Northern Lakes Food Bank

Reef Bar, 2002 London Road

Confidence Learning Center

Shotz Bar, 1321 Commonwealth Avenue

Resolution 08-0191 was unanimously adopted.
Approved March 10, 2008
DON NESS, Mayor

- - -

RESOLVED, that the reappointment by Mayor Ness to the community development committee of Scott M. Wallschlaeger (District 3), for a term expiring on March 1, 2011, is confirmed.

FURTHER RESOLVED, that the appointments by Mayor Ness to the community development committee of Jennifer Baumann (District 5), for a term expiring on March 1, 2011; Ron Boshey, Sr. (District 6) for a term expiring on March 1, 2009; and Scott Christensen (District 2), for a term expiring on March 1, 2011, replacing Cynthia L. Potts, Allen Richardson and Philip Monson, who resigned, are confirmed.

Resolution 08-0179 was unanimously adopted.
Approved March 10, 2008
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED, that the reappointments by Mayor Ness to the parks and recreation commission of Nicholas K. Lansing (at large), Elizabeth Mackay (District 5), Rick Minotte (District 3) and Jim Topie (District 7), for terms expiring on February 13, 2011, are confirmed.

Resolution 08-0180 was unanimously adopted.

Approved March 10, 2008

DON NESS, Mayor

- - -

The city council finds as follows:

(a) Ordinance No. 9701 provides that members of the Downtown Waterfront Special Service District advisory board will be appointed by the Greater Downtown Council and approved by vote of the city council;

(b) The Greater Downtown Council has acted to reappoint or appoint the following persons to the advisory board:

Ron Anderson, Grandma's term expiring December 31, 2010

Sharla Gardner, city councilor,
replacing Russ Stewart term expiring December 31, 2008

Sandy Hoff, FL Salter term expiring December 31, 2010

Barb Perrella, Labovitz Enterprises term expiring December 31, 2010

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves the above reappointments and appointment to the advisory board for the Downtown Waterfront Special Service District.

Resolution 08-0181 was unanimously adopted.

Approved March 10, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Neenah Foundry Company for the purchase and delivery of replacement castings as needed during year 2008 for the utility operations division in accordance with specifications and the vendor's quote of \$19,192 plus \$1,247.48 sales tax for a combined total amount of \$20,439.48, terms net 30, FOB destination, payable from the Stormwater Fund 535, Department/Agency 500, Organization 1945, Object 5227.

Resolution 08-0176 was unanimously adopted.

Approved March 10, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to renew the contract with Viele Contracting, Inc., the second year of a potential four year contract, for the purchase and delivery of 5,577 tons of Class 5 gravel for public works and utilities projects during year 2008 in accordance with the city's specifications and the contractor's quote \$35,860.11 plus \$2,330.91

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

sales tax for a combined total of \$38,191.02, terms net 30, payable from General Fund 100, Department/Agency 500, Organization 1920-2550, Object 5224.

Resolution 08-0177 was unanimously adopted.
Approved March 10, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a grant, a copy of which is on file in the office of the city clerk as Public Document No. 08-0310-15, from the Minnesota department of natural resources Lake Superior coastal program in the amount of \$18,187, said sum to be deposited in Fund 535, Agency 500, Division 1900, Object 4210-02, for the purposes of expanding the surface water quality awareness outreach program of the regional stormwater protection team (RSPT) through establishing partnerships with regional businesses for assistance in funding activities and developing outreach materials.

FURTHER RESOLVED, that the proper city officials are authorized to act as legal sponsor of said grant and to obligate up to \$25,476 of in-kind match in the form of services from city staff and staff of RSPT partner organizations.

Resolution 08-0178 was unanimously adopted.
Approved March 10, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into a contract with SEH, Inc., for engineering services for the replacement of approximately 2,670 linear feet of watermain in Congdon Boulevard and Avondale Street, in accordance with its proposal dated February 29, 2008, in an estimated amount not to exceed \$30,600, payable from Water Fund 510, Department 500, Organization 1905, Object 5536, City Project No. 0680WA.

Resolution 08-0188 was unanimously adopted.
Approved March 10, 2008
DON NESS, Mayor

- - -

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. 08-0310-16 with Minnesota Program Development, Inc., for services related to the domestic abuse intervention project in the amount of not to exceed \$75,889, payable from Fund 215-200-2280-5310.

Resolution 08-0172 was unanimously adopted.
Approved March 10, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized to enter into an agreement with ISD 709 amending City Agreement Number 20542, which agreement provides for law enforcement officers in the public schools, said amendment to be substantially in the form of Public Document No. 08-0310-17 on file in the office of the city clerk; payments from the school district to be deposited in Fund 100, Agency 200, Organization 1610, Source 4261.

Resolution 08-0184 was unanimously adopted.
Approved March 10, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to apply for and, if approved, accept a grant from the state of Minnesota, department of natural resources, in the amount of up to \$6,825, to be deposited into Fund 100-500-1920-2550-4225, to rehabilitate a cross country ski trail bridge over Chester Creek, to supply local matching funds in the amount of not less than \$3,675 from said fund and to execute all documents necessary thereto.

FURTHER RESOLVED, that the Duluth city auditor is hereby designated as the fiscal agent for this project.

Resolution 08-0173 was unanimously adopted.

Approved March 10, 2008

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 08-0194, authorizing a contract with Lake Superior Area Family Services for the operation of an outreach gambling program during year 2008 in an amount not to exceed \$100,000, was introduced by Councilor Krause for discussion.

Councilor Krause moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Steve Dettinger, executive director of Lake Superior Area Family Services, responded to councilor questions relative to other funding sources and the scope of services.

Resolution 08-0194 failed upon the following vote (Public Document No. 08-0310-18):

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Krause and President Reinert -- 6

Nays: Councilors Fedora, Fosle and Stauber -- 3

[Editor's Note: Resolution 08-0194 needed to be approved by at least seven members of the council, pursuant to Section 54(E) of the City Charter.]

- - -

Resolution 08-0200, by Councilor Krause, recording council's intent - referring to Resolution 08-0093 *[approving a special use permit to A&L Properties for a 10,000 square foot medical clinic]*, was introduced for discussion.

Councilor Krause moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Mark Pilon, representing the developer, stated that the developer is willing to work out a compromise.

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

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause and Stauber -- 7

Nays: None -- 0

Abstention: Councilor Fedora and President Reinert -- 2

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Resolution 08-0064, authorizing a service agreement with Duluth Sister Cities International, Inc., in the amount of \$60,000, was introduced by Councilor Stauber for discussion.

Councilor Stauber moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Glenn Peterson, president of Duluth Sisters Cities International, Inc., Randy Zimmermann, Cherie Sawinski, Melissa Kadlec, executive director, Earl Rogers, Kaird Groehler, Brooks

Anderson, Zhena Krasnov, Lynn Fena and Frank Jewell spoke in favor of the resolution, for reasons of: the sister city commission has been active since it was established in 1986; four official sister city relationships have been established; this program establishes grass roots relationships between our citizens and those from other countries; these types of relationships make the establishment of international peace a personal aspect of community life; as an international port, we should promote international relationships; in addition to the personal level of relationships, there is the relationship of city government to city government; by being an agency of city government, it was limited as to the means to leverage additional funding; in 2006 the process was started to be an independent 501(c)(3) entity; with the hiring of an executive director, the organization will be developing a strategic plan for continued funding and operations; the sisters cities program has sponsored a wide variety of programs over the last 20 years; regarding the economic impact, an average international sister city visitor spends \$ 1,800 per visit to the United States and we have approximately 300 international visitors annually; the \$60,000 is an investment that is being returned to the community, many times over; Resolution 07-0784, which passed on December 17, 2007, authorized the distribution of the tourism tax, of which this amount was only one percent of the total amount; the group is now in the process of seeking funding and increased memberships; it is a good business and economic decision to have a sisters cities program; this program gives individuals opportunities that they would not otherwise have had a chance to experience; our program is one of the best in the whole county; individuals that have come here have fostered additional programs between Duluth organizations and entities in our sister cities; tourism dollars are a perfectly appropriate funding source; thousands of individuals have benefited from the presence of sister cities and our identity and quality of life as a community is enhanced because of the sister cities connections.

Councilor Fedora had concerns that: there are decreases in funding for parks, recreation, playground equipment, libraries, retiree healthcare benefits, street repairs and stormwater overflow; these are tough economic times where something has to give; there would have to be 5,300 nights of lodging and 10,600 meals in a year to achieve \$60,000 worth of tourism tax and core services of police, fire and public works need to be focused on.

Resolution 08-0064 was adopted as follows:

RESOLVED, that the Duluth City Council hereby finds as follows:

(a) Sister city relationships stimulate community interest in culture, history, art and the study of foreign languages; open new dialogues with people of another culture to find unique solutions to municipal problems therefore improving the quality of life for citizens of Duluth; promote Duluth tourism; advertise the city of Duluth; provide invaluable learning and educational experiences for Duluth citizens; provide an opportunity for improving local relations through working together for a common objective; promote trade and stimulate the local economy by associating local products with the city marketing name (branding); and provide doors through which Duluth's citizens can experience and come to understand other countries and their people and cultures, thus furthering global understanding and world peace; and

(b) The city desires to participate in sister city relationships between the city and cities of other countries in part through participation in Sister City International which participation includes international exchanges of citizen visits, correspondence, artwork, culture, music and education; and

(c) The city has deemed it to be in the public interest to provide funding to the Duluth Sister City International, Inc., (DSCI) for these services.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into a service agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 08-0310-19, with DSCI in an amount not to exceed \$60,000 payable from Fund 258.

Resolution 08-0064 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Krause, Stauber and President Reinert -- 7

Nays: Councilors Fedora and Fosle -- 2

Approved March 10, 2008

DON NESS, Mayor

- - -

Resolutions 08-0186 and 08-0187, approving and denying, respectively, the vacation of the 14th Street Alley between Piedmont Avenue and U.S. Highway 53 (Ray Wood), were introduced by Councilor Stauber.

Resolution 08-0186, was adopted as follows:

The city council finds a sufficient petition was filed with the city clerk requesting the vacation of the alley between Piedmont Avenue and U.S. Highway 53 legally described as: 14th Street Alley adjoining lots to 1 to 4, Block 35, Harrison's Brookdale Division to Duluth, lying between Piedmont Avenue and U.S. Highway 53 (FN 06114); and

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

The city planning commission unanimously approved the vacation of the alley between Piedmont Avenue and U.S. Highway 53 at its November 12, 2006, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the above-described alley, more particularly described on Public Document No. 08-0310-20.

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 alley to be vacated.

Resolution 08-0186 was unanimously adopted.

Approved March 10, 2008

DON NESS, Mayor

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Resolution 08-0187 failed upon a unanimous vote (Public Document No. 08-0310-21).

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Resolution 08-0196, by President Reinert, declaring city's strategy for regulation of rental housing, was introduced for discussion.

Councilor Stauber moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Gary Kalligher noted that he and the Duluth Association for Responsible Rentals (DARR) support the revision of the 300 foot ordinance. He also requested that individuals with handicapped children be exempt of the 300 foot rental ordinance, thus allowing to help them "make ends meet."

President Reinert moved to table the resolution in order to coincide with the consideration of Ordinance 08-022, which motion was seconded and unanimously carried.

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Resolution 08-0175, authorizing city officials to contract with the Housing and Redevelopment Authority of Duluth for professional right-of-way and easement acquisition services during year 2008 for an estimated amount of \$20,000, was introduced by Councilor Fosle for discussion.

Councilor Krause expressed concerns that this should be bid out, in order to see how competitive this entity's costs are.

Resolution 08-0175 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into a one year agreement with the Housing and Redevelopment Authority of Duluth (HRA), said agreement substantially the same as that on file with the city clerk as Public Document No. 08-0310-22, for professional right-of-way and easement acquisition services for year 2008 transportation and utility improvement projects for an estimated amount of \$20,000, payable from various funds.

Resolution 08-0175 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved March 10, 2008

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a three year agreement with Michelle Hayko, the agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 08-0310-23, for professional softball league management services at an amount not to exceed \$6,500 per year, terms twice per season, payable from the Special Projects Fund 210, Agency 030, Organization 3190, Object 5319.

Resolution 08-0185 was unanimously adopted.

Approved March 10, 2008

DON NESS, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR KRAUSE

08-019 - AN ORDINANCE AMENDING SECTIONS 5-32, 5-34, 5-36, 5-37, 5-38, 5-40, 5-41 AND 5-42 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO MASSAGE ESTABLISHMENT LICENSING.

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INTRODUCED BY COUNCILOR STAUBER

08-021 - AN ORDINANCE AMENDING SECTION 50-143 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY PRESIDENT REINERT

08-022 - AN ORDINANCE PURSUANT TO MINNESOTA STATUTE 462.355, SUBD. 4, TO PRESERVE THE STATUS QUO PENDING THE COMPLETION AND REPORT OF A STUDY

AND POSSIBLE ACTION ON THE STUDY INCLUDING AMENDING THE CITY'S ZONING AND RENTAL LICENSING ORDINANCES AS THEY MAY PERTAIN TO AREAS SURROUNDING THE UNIVERSITY OF MINNESOTA AND THE COLLEGE OF SAINT SCHOLASTICA.

Councilor Stauber moved to suspend the rules to hear speakers on the ordinance, which motion was seconded and unanimously carried.

Sandy Robinson commented on various boundary proposals and specifically that she is concerned about the western boundary being at Sixth Avenue East.

Kim Parmeter requested that the ordinance be amended to allow for a formerly occupied owner-operated duplex be eligible for a rental license regardless of the 300 foot rule.

Councilor Stauber reviewed information that he received from the city attorney office regarding the ordinance, that from the moment it is introduced until passed, that no building permits of any kind in the area affected whatsoever can be issued.

After extensive discussion between the council and the city attorney regarding this issue, President Reinert, as the author of the ordinance, stated that he would remove it from the agenda.

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BY COUNCILOR ANDERSON

08-023 - AN ORDINANCE AMENDING SECTION 29A-32 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO RENTAL LICENSING.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR KRAUSE

08-017 (9895) - AN ORDINANCE AMENDING SECTIONS 8-13, 8-35, 8-41, 8-42, 8-43, 8-44, 8-56 AND 8-63 AND REPEALING 8-29.5 OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING THE SALES OF INTOXICATING LIQUOR.

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

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BY PRESIDENT REINERT

08-018 (9896) - AN ORDINANCE AMENDING SNOW EMERGENCY PARKING REGULATIONS CLARIFYING THE PARKING AFFECTED, AMENDING SECTIONS 33-97.1 AND 33-97.2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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The meeting was adjourned at 8:59 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9895

AN ORDINANCE AMENDING SECTIONS 8-13, 8-35, 8-41, 8-42, 8-43, 8-44, 8-56 AND 8-63 AND REPEALING 8-29.5 OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING THE SALES OF INTOXICATING LIQUOR.

The city of Duluth does ordain:

Section 1. That Section 8-13 of the Duluth City Code, 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:

(a) 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;

(b) At retail. Such term means for use or consumption by the purchaser and not for resale;

(c) 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;

(d) 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;

(e) 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;

(f) 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;

(g) Intoxicating liquor. Ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight;

(h) 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;

(i) 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;

(j) Theater. A building containing an auditorium in which live dramatic, musical, dance or literary performances are regularly presented to holders of tickets purchased for those performances. A theater shall not include an adult entertainment establishment as defined by Section 5-17(b) of this Code;

(k) 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;

(l) Off sale. The sale of alcoholic beverages in original packages in retail stores for consumption off or away from the premises where sold;

(m) On sale. The sale of alcoholic beverages by the glass for consumption on the premises only;

(n) Package or original package. Any container or receptacle holding alcoholic beverages, which container or receptacle is corked or sealed;

(o) 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;

(p) 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 maybe included in the licensed premises of a restaurant if table service is available throughout the licensed premises;

(q) 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;

(r) Wholesaler. Any person engaged in the business of selling alcoholic beverages to retail dealers;

(s) 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 Section 8-35 of the Duluth City Code, as amended, is amended to read as follows:

Sec. 8-35. Licensee personally liable for unauthorized sales.

Any sale of alcoholic beverages in or from any place licensed under this Article by any clerk, barkeeper or other employee in such place shall be deemed the

act of the employer and the local managing agent as well as that of the person actually making the sale. Such employer and local managing agent shall be liable for all the penalties provided by this Code for such sale equally with the person actually making the sale.

Section 3. That Section 8-41 of the Duluth City Code, as amended, is amended to read as follows:

Sec. 8-41. Types generally.

(a) With respect to intoxicating liquor, there shall be eight types of licenses: on sale, on sale club, on sale wine, on sale culinary class, on sale theater, temporary on sale, off sale and a brewery malt liquor off sale;

(b) On sale licenses shall permit the licensee to sell intoxicating liquor at retail for consumption on the licensed premises only;

(c) On sale culinary class licenses shall permit the licensee to sell intoxicating liquor subject to the restrictions of Section 8-44(d) of this Chapter and Minnesota Statutes Section 340A.4041, or its successor;

(d) The on sale theater license authorizes sales on all days of the week to persons attending events at the theater;

(e) 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;

(f) 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;

(g) 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), or its successor, and this Chapter;

(h) 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, or its successor;

(i) With respect to 3.2 percent malt liquor, there shall be three types of licenses: on sale, off sale and temporary on sale.

(1) On sale licenses shall permit the licensee to sell 3.2 percent malt liquor at retail for consumption on the licensed premises only;

(2) 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;

(3) 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;

(j) 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 4. That Section 8-42 of the Duluth City Code, as amended, is 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;

(c) Within 30 days of a change in managers or local managing agents by a license holder, the license holder shall provide written notice of such change to the city clerk on the form required by the city. The failure of any license holder to comply with the provisions of this paragraph shall be grounds for the revocation of all alcoholic beverage licenses held by such license holder. This paragraph shall take effect on September 1, 2008.

Section 5. That Section 8-43 of the Duluth City Code, as amended, is amended to read as follows:

Sec. 8-43. Bottle clubs and consumption and display permits.

(a) Definitions;

(1) Bottle clubs. For the purposes of this Section, a bottle club is a club, as defined in Section 8-13, or an unincorporated society which, except for its lack of incorporation, otherwise meets the requirement of a club, as defined in such Section, and which is not licensed for the sale of intoxicating liquors, either on sale or off sale, or both;

(2) Sale. For the purposes of this Section, sale shall include any form of dispensing;

(b) No administrative officer of the city shall grant approval for issuance of any annual consumption and display permit to a bottle club by the liquor control commissioner of the state of Minnesota unless the city council has authorized such approval by resolution after investigation and recommendation regarding such permit application has been made by the alcohol, gambling and tobacco commission pursuant to the procedures set forth in Section 8-7 of this Chapter;

(c) All bottle clubs permitted by the state to do business in the city of Duluth shall pay a fee, which shall be set in accordance with Section 31-6(a) of this Code, annually to the city in addition to any fee paid to the state. The fee payable to the city shall be paid prior to the beginning of operation of a bottle club, and prior to April 1 of the following and each succeeding year;

(d) The provisions and regulations of sections 8-15, 8-16, 8-17, 8-18, 8-19, 8-24, 8-26, 8-28, 8-34 and 8-35 shall fully and equally apply and regulate establishments holding bottle club licenses from the Minnesota state liquor control commissioner;

(e) The city clerk, subject to the requirements of Minnesota law, may issue a one day permit for the consumption and display of intoxicating liquor to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization;

(f) A permit issued pursuant to this Section permits the consumption and display of intoxicating liquor on the premises. The permit does not authorize the sale of intoxicating liquor.

Section 6. That Section 8-44 of the Duluth City Code, as amended, is amended to read as follows:

Sec. 8-44. To whom licenses issued--intoxicating liquor.

(a) 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;

(b) 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;

(c) 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 and, if the facility contains a licensed commercial kitchen, also to guests attending private events at the facility if such events are otherwise authorized by Chapter 50 of this Code. 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;

(d) On sale culinary class licenses shall be granted only to business establishments that meet the following conditions:

(1) The business establishment is not otherwise eligible for an on sale intoxicating liquor license; and

(2) That, as a regular part of its business the establishment conducts culinary or cooking classes for which payment is made by each participant and only if such participant has made an advance reservation.

The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only;

(e) Temporary on sale liquor licenses shall be issued only to:

(1) Clubs, charitable organizations, religious organizations and other nonprofit organizations in existence for at least three years;

(2) A registered political committee;

(3) A state university; or

(4) 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;

(f) Off sale intoxicating liquor licenses shall be granted only to exclusive liquor stores;

(g) Brewery malt liquor off sale licenses shall be granted to:

(1) Breweries holding on sale licenses; or

(2) 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), or its successor.

Section 7. That Section 8-56 of the Duluth City Code, as amended, is amended to read as follows:

Sec. 8-56. Fees.

(a) 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;

(b) 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;

(c) 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;

(d) The annual fees for all licenses and permits provided for in this Chapter shall be set in accordance with Section 31-6(a) of this Code.

Section 8. That Section 8-63 of the Duluth City Code, as amended, is amended to read as follows:

Sec. 8-63. Same--Corporations.

(a) Alcoholic beverage licenses may be issued to any corporation authorized to do business in the state of Minnesota if an officer or a managing agent of the corporation is a resident of Minnesota residing within 50 miles of the Duluth City Hall;

(b) No corporation shall be granted a license to sell alcoholic beverages if any of its officers, directors, shareholders, local managers or local managing agents have been convicted within five years prior to the application for such license for violation of any law relating to the manufacture, sale, distribution or possession of alcoholic beverages, or have had an interest in a license to sell alcoholic beverages which was revoked within the last five years for violation of any such law, or for cause, and unless such officers, directors, shareholders, local managers and local managing agents are of good moral character and reputation. This paragraph shall not apply to clubs, or to corporations whose stock is publicly held and listed and traded by the public on a recognized stock exchange, except with respect to those provisions dealing with local managers and local managing agents;

(c) A corporation shall state in its application for an alcoholic beverage license the names of its shareholders, directors, officers, local managers and local managing agents. The transfer, sale, pledge or assignment of the record or equitable ownership of any stock of a corporate license holder to new or different shareholders by a corporate license holder shall be deemed a transfer of all alcoholic beverage licenses held by such corporation and, in such case, the provisions of Section 8-67 of this Code, shall be applicable. The failure of any corporate license holder to comply with the provisions of this paragraph shall be grounds for the revocation of all alcoholic beverage licenses held by such

corporation. This paragraph shall not apply to clubs, or to corporations whose stock is publicly held and listed and traded by the public on a recognized stock exchange.

Section 9. That Section 8-29.5 of the Duluth City Code, as amended, is repealed in its entirety.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 13, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

Passed March 10, 2008

Approved March 10, 2008

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9896

BY PRESIDENT REINERT:

AN ORDINANCE AMENDING SNOW EMERGENCY PARKING REGULATIONS CLARIFYING THE PARKING AFFECTED, AMENDING SECTIONS 33-97.1 AND 33-97.2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 33-97.1 of the Duluth City Code 1959, as amended, is hereby amended to read as follows:

Sec. 33-97.1. Snow emergency routes--parking regulated.

(a) Whenever the director of public works, or his representative, determines that existing weather conditions or forecasted weather conditions require that traffic be expedited or snowplowing be carried out, he shall put into effect the snow emergency prohibitions established by this Article by declaring, in a manner prescribed by this Article, that a snow emergency exists; such declaration shall be made no later than 6:00 P.M. on any day and shall be effective at 9:00 P.M. on that day.

(b) Once in existence, a snow emergency under this Article shall remain in effect until terminated by announcement of the director of public works, or his representative, in accordance with this Article;

(c) No person shall park or allow to remain parked, any vehicle on any portion of any public street or highway in violation of the snow emergency provisions of this Division when a snow emergency exists;

(d) Notwithstanding any other provision of this Chapter to the contrary, no person shall park or allow to remain parked any vehicle on any street designated a snow emergency route from 9:00 P.M. on the day of declaration of any snow emergency until 8:00 A.M. on the day following such declaration;

(e) Notwithstanding any other provision of this Chapter to the contrary, commencing at 8:00 a.m. on the morning next following the declaration of a snow emergency, as described in paragraph (a) above, and for 24 hours thereafter, vehicular parking on streets and highways other than a snow emergency routes shall be prohibited on the side of the street or highway upon which parking is prohibited by Section 33-97.8(a) below;

(f) Notwithstanding any other provision of this Chapter to the contrary, commencing at 8:00 a.m. on the second morning next following the declaration of a snow emergency, as described in paragraph (a) above, and for 24 hours thereafter, vehicular parking on streets and highways other than a snow emergency routes shall be prohibited on the side of the street or highway upon which parking is permitted by Section 33-97.8(a) below.

Section 2. That Section 33-97.2 of the Duluth City Code 1959, as amended, is hereby amended to read as follows:

Sec. 33-97.2. Same--Designated.

The following streets or portions of streets within the city are hereby designated as snow emergency routes:

- Michigan Street from Carlton Avenue to Lower Michigan Street.
- Lower Michigan Street from Michigan Street to Superior Street.
- Superior Street from Carlton Street to 60th Avenue East.
- London Road from Tenth Avenue East to the Lester River Road.
- 24th Avenue West from Michigan Street to Piedmont Avenue.
- Piedmont Avenue from Trinity Road to Haines Road.
- Mesaba Avenue.
- Second Street from Mesaba Avenue to 12th Avenue East.
- Fourth Street from Mesaba Avenue to Woodland Avenue.
- Sixth Avenue East from Second Street to Skyline Parkway.
- Skyline Parkway from Mesaba Avenue to Kenwood Avenue.
- Kenwood Avenue from Skyline Parkway to Arrowhead Road.
- Arrowhead Road from Arlington Avenue to Woodland Avenue.
- Lake Avenue from Superior Street to Railroad Street.
- Railroad Street from Lake Avenue to South Lake Avenue.
- South Lake Avenue from Railroad Street to Minnesota Avenue.
- Woodland Avenue from Fourth Street to Martin Road.
- Ninth Street from Sixth Avenue East to and including Chester Creek

Bridge.

- Eighth Street from Chester Creek Bridge to Kent Road.
- Kent Road from Ninth Street to 24th Avenue East.
- 24th Avenue East from Kent Road to Superior Street.
- Snively Road from Woodland Avenue to Glenwood Street.
- Glenwood Street from Snively Road to Crosley Street.
- Crosley Street from Glenwood Street to Oakley Street.
- Oakley Street from Crosley Street to 60th Avenue East.
- 60th Avenue East from Crosley Street to London Road.
- 45th Avenue East from London Road to Glenwood Street.
- Carlton Street from Michigan Street to Grand Avenue.

Grand Avenue from Carlton Street to Commonwealth Avenue.
Arbor Street from Grand Avenue to 88th Avenue West.
88th Avenue West from Arbor Street to Idaho Street.
Idaho Street from 88th Avenue West to Grand Avenue.
Commonwealth Avenue from Grand Avenue to Evergreen Memorial

Highway.

40th Avenue West from I-35 ramp to Eighth Street.
Eighth Street from 40th Avenue West to 59th Avenue West.
59th Avenue West from Grand Avenue to Highland Street.
Highland Street from 59th Avenue West to Stebner Road.
Vinland Street from Stebner Road to Boundary Avenue.
Swan Lake Road from Arrowhead Road to Basswood Avenue.
Basswood Avenue from Swan Lake Road to Central Entrance.

Section 3. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: April 13, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 10, 2008
Approved March 10, 2008
DON NESS, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 24, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0324-01 Minnesota state auditor submitting audit report for Lake Superior Center authority for the year ended December 31, 2006. -- Received

08-0324-16 Grandma's, Inc., communication regarding proposed ordinance pertaining to concurrent use permits for expansion of alcoholic beverage serving areas (07-086-O). -- Received

08-0324-17 Jerome D. Feriancek communication regarding the proposed ordinance creating liability of social hosts for underage consumption of alcohol (08-026-O). -- Received

08-0324-18 The following communications relating to rental licensing (08-0196R and 08-023-O): (a) Campus Neighbors Advisory Group; (b) Bob Collison; (c) Neal Enzenauer; (d) Mary Gallegos; (e) Mary Hautajarvi; (f) Lou Hedberg; (g) Gene Klun; (h) Kimberly Parmeter. -- Received

- - -

REPORTS FROM THE ADMINISTRATION

Mayor Ness announced that Harrison Community Club will reopen and the \$100,000 deductible is being funded through various funding sources including \$20,000 that is being raised by the community club members.

- - -

REPORTS FROM OTHER OFFICERS

08-0324-02 Clerk application to the Minnesota gambling control board for exemption from lawful gambling license from St. James Home of Duluth, dba Woodland Hills, on August 18, 2008 (raffle). -- Received

08-0324-32 Purchasing agent emergency order awarded to Kalkbrenner Plumbing to line about 70 feet of an eight inch sewer line located in a 24 foot sewer easement between East Superior Street and Jefferson Street, between 16th and 17th avenues East in the amount of \$9,500. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

08-0324-03 American Indian commission minutes of January 28, 2008, meeting. -- Received

08-0324-04 Building appeal board minutes of January 9, 2008, meeting. -- Received

08-0324-05 Charter commission minutes of: (a) October 10; (b) November 1, 2007, meetings. -- Received

08-0324-06 Commission on disabilities minutes of February 6, 2008, meeting. -- Received

08-0324-07 Duluth human rights commission minutes of February 13, 2008, meeting. -- Received

08-0324-08 Duluth legacy endowment fund project group minutes of January 29, 2008, meeting. -- Received

08-0324-09 Duluth/North Shore Sanitary District minutes of: (a) January 9; (b) February 13, 2008, meetings. -- Received

08-0324-10 Duluth public arts commission minutes of March 3, 2008, meeting. -- Received

08-0324-11 Entertainment and convention center authority building committee minutes of March 12, 2008, meeting. -- Received

08-0324-12 Parking commission minutes of March 11, 2008, meeting. -- Received

08-0324-13 Parks and recreation commission minutes of January 9, 2008, meeting. -- Received

08-0324-14 Planning commission minutes of: (a) January 30; (b) February 12, 2008, meetings. -- Received

08-0324-15 Seaway Port authority of Duluth financial report for January, 2008. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Dave Barschdorf stated that School District Superintendent Keith Dixon stated on television that he wants to raise taxes for the new schools and that Mr. Dixon should resign his position as the citizens are already taxed too high.

- - -

RESOLUTIONS TABLED

Councilor Krause moved to remove Resolution 08-0200, recording council's intent - referring to Resolution 08-0093 [*approving a special use permit to A&L Properties for a 10,000 square foot medical clinic*], from the table, which motion was seconded and unanimously carried.

Councilor Krause explained this resolution clarifies what the intent was of the previous resolution by maintaining a 50 foot buffer and it moves the entrance to the opposite end of the property.

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

Mark Pilon stated he was representing the developer and was available for questions from the council.

Resolution 08-0200 was adopted as follows:

BY COUNCILOR KRAUSE:

The city council finds as follows:

(a) On February 11, 2008, it took up the matter of a special use permit granted by Resolution 08-0093;

(b) A site plan was presented to the council as part of the information for its use in deliberations;

(c) In the course of deliberating Resolution 08-0093, and hence the permit was amended, so no site plan was then available that reflected the amendment;

(d) The current discussion and descriptions of site plans are inconsistent with the council's intention at the time it amended and passed Resolution 08-0093.

THEREFORE, BE IT RESOLVED, that the city council declares that at the time Resolution 08-0093 was amended and passed, the city council intended that the approved site plan, for purpose of City Code Section 50-32, et. seq., be substantially the one presented to the council in the planning commission and staff report but with (i) an undeveloped buffer zone covering the area within 50 feet of the property line on the south and west; (ii) and with a buffer zone, which may contain vehicle and pedestrian access, parking, and other nonstructural improvements, covering the area within 25 feet of the property line on the north and east; and (iii) a main entrance access near the north property line; and that regulation, application and enforcement of the permit granted by Resolution 08-0093 shall, to the extent possible, carry out the intent of the council that is expressed in this resolution.

Resolution 08-0200 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause and Stauber -- 7

Nays: None -- 0

Abstention: Councilor Fedora and President Reinert -- 2

Approved March 24, 2008

DON NESS, Mayor

- - -

President Reinert moved to consider tabled ordinances 07-086 and 08-001 and Resolution 08-0013 at this time, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCES TABLED

INTRODUCED BY COUNCILOR KRAUSE

07-086 (9897) - AN ORDINANCE AMENDING SECTIONS 45-103 AND 8-54 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO CONCURRENT USE PERMITS FOR EXPANSION OF ALCOHOLIC BEVERAGE SERVING AREAS.

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

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

- - -

INTRODUCED BY COUNCILOR STAUBER

08-001 - AN ORDINANCE GRANTING TO NICK PATRONAS, DBA ACES ON FIRST, A CONCURRENT USE PERMIT TO OCCUPY, SERVE AND MAINTAIN A COUNTER TO SERVE LIQUOR ON THE SIDEWALK ABUTTING 113 WEST FIRST STREET AND IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH CONCURRENT USE PERMIT.

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

Councilor Stauber moved to return the ordinance to the administration for further review, which motion was seconded and unanimously carried.

- - -

Councilor Stauber moved to remove Resolution 08-0013, denying a concurrent use permit to Aces on First for the sidewalk abutting 113 West First Street (Nick Patronas), from the table, which motion was seconded and unanimously carried.

Councilor Stauber moved to return the resolution to the administration for further review, 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.)

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

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Krech Ojard & Associates, P.A., for providing certain professional services to the city of Duluth for the Arlington maintenance building (OT-0801-B), replacement of the City Hall roof (OT-0802-B) and improvements to the Lund maintenance building (OT-0811-B), for the sum not to exceed \$32,210, payable as follows:

Project OT-0801 - \$8,980 - Capital Fund 450, Department/Agency 030, Object 5520, CP 2008, OT-0801;

Project OT-0802 - \$17,450 - Capital Fund 450, Department/Agency 030, Object 5520, CP 2008, OT-0802;

Project OT-0811 - \$5,780 - Capital Fund 450, Department/Agency 030, Object 5520, CP 2008, OT-0811;

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. 08-0324-20.

Resolution 08-0189 was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with John Ivey Thomas Associates, Inc., for providing certain professional services to the city of Duluth for the firehall overhead door replacement (OT-0803-B), firehall ventilation systems (OT-0804-B), Firehall #1 masonry repair (OT-0805-B), firehalls #1 & 7 overlays (OT-0806-B), and firehalls #4 & 7 window and brick repair (OT-0809-B), for the sum not to exceed \$20,500, payable as follows:

Project OT-0803 - \$1,400 - Capital Fund 450, Department/Agency 030, Object 5520, CP 2008, OT-0803;

Project OT-0804 - \$1,400 - Capital Fund 450, Department/Agency 030, Object 5520, CP 2008, OT-0804;

Project OT-0805 - \$8,553 - Capital Fund 450, Department/Agency 030, Object 5520, CP 2008, OT-0805;

Project OT-0806 - \$3,166 - Capital Fund 450, Department/Agency 030, Object 5520, CP 2008, OT-0806;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Project OT-0809 - \$5,981 - Capital Fund 450, Department/Agency 030, Object 5520, CP 2008 OT-0809;

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. 08-0324-21.

Resolution 08-0190 was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Lakehead Racing 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 08-0192 was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with ARCHITECTURE Advantage for providing certain professional services to the city of Duluth in connection with remodeling of Fire Station #10 (OT-0807-B) and the roof replacement/interior repair of Firehall #11 (OT-0808-B) for the sum not to exceed \$24,750, payable as follows:

Project OT-0807 - \$15,750 - Capital Fund 450. Department/Agency 030. Object 5520. CP 2008, OT-0807;

Project OT-0808 - \$9,000 - Capital Fund 450, Department/Agency 030, Object 5520, CP 2008; OT-0808;

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. 08-0324-22.

Resolution 08-0193 was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Red Horse Truck Body & Hoist, LLC, for the purchase and installation of two dump bodies with hoists, attachments and central hydraulics system on two 2008 Chevrolet Silverado cab and chassis units for the fleet services division in accordance with the city's specifications and the vendor's low bid of \$48,480 plus \$3,151.20 sales tax, for a combined total of \$51,631.20, terms net 30, FOB destination (delivery of completed units at no cost), payable from the Capital Equipment Fund 250, Department/Agency 015, Organization 2008, Object 5580, Project CE250-V806.

Resolution 08-0201 was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

- - -

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 2008

Marshall School, 1215 Rice Lake Road, for May 2, 2008, with Barbara Brueggemann, manager.

Resolution 08-0202 was unanimously adopted.
Approved March 24, 2008
DON NESS, Mayor

- - -

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:

Grandma's Marathon - Duluth, Inc., Canal Park Drive and Buchanan Street, for June 20-22, 2008, with Scott Kennan, manager, with the music and serving ending at 1:00 a.m.

Resolution 08-0203 was unanimously adopted.
Approved March 24, 2008
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Ziegler, Inc., for the purchase and delivery of one Caterpillar 257B Series II multi-terrain loader with options for the fleet services division in accordance with state of Minnesota Contract #437488, Release #T631(5), specifications and pricing in the amount of \$41,680 plus \$2,709.20 sales tax for a combined total amount of \$44,389.20, terms net 30, FOB destination, payable from the Capital Equipment Fund 250, Department/Agency 015, Organization 2008, Object 5580, Project CE250-V809.

Resolution 08-0212 was unanimously adopted.
Approved March 24, 2008
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Elk River Chrysler for the purchase and delivery of three 2008 Dodge Durango SXT 4x4 flexible fuel sport utility vehicles to be used as unmarked patrol squads in accordance with state of Minnesota Contract #438549, Release A-175(5), specifications and pricing for \$63,912 plus \$4,154.28 sales tax (unmarked patrol units not tax-exempt) plus \$150 plates, for a total combined amount of \$68,216.28, payable from the Capital Equipment Fund 250, Department/Agency 015, Organization 2008, Object 5580, Project CE250-V803.

Resolution 08-0213 was unanimously adopted.
Approved March 24, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of grant coordinator, which were approved by the civil service board on February 5, 2008, and which are filed with the city clerk as Public Document No. 08-0324-23, 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 08-0195 was unanimously adopted.
Approved March 24, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of warehouse specialist, which were approved by the civil service board on March 7, 2006, and which are filed with the city clerk as Public Document No. 08-0324-24, are approved.

Resolution 08-0198 was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of seasonal groundskeeper, which were approved by the civil service board on May 2, 2006, and which are filed with the city clerk as Public Document No. 08-0324-25, are approved.

Resolution 08-0199 was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that the reappointments by Mayor Ness to the alcohol, gambling and tobacco commission of John W. Hammock and John A. Serre, for terms expiring on March 20, 2011, are confirmed.

FURTHER RESOLVED, that the appointment by Mayor Ness to the alcohol, gambling and tobacco commission of Chris Pekkala, for a term expiring on March 20, 2010, replacing Steve Khalar who resigned, is confirmed.

Resolution 08-0208 was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the housing and redevelopment authority of John Ivey Thomas, for a term expiring on January 3, 2011, replacing Richard White-man who resigned, is confirmed.

Resolution 08-0209 was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that the reappointment by Mayor Ness to the joint airport zoning board of Cindy Hall for a term expiring on January 2, 2011, is confirmed.

Resolution 08-0210 was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the library board of Printha Markert, for a term expiring on June 1, 2010, replacing James Berg who resigned, is confirmed.

Resolution 08-0211 was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the parks and recreation commission of Susan B. Latto (community education), for a term expiring on February 13, 2011, replacing Neale Roth who resigned, is confirmed.

Resolution 08-0225 was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the Duluth human rights commission of Monica Roth Day, for a term expiring on April 20, 2009, replacing Samuel Resendez who resigned, is confirmed.

Resolution 08-0227 was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to allow modification to City Contract No. 20095 to accept an additional \$8,500 from the U.S. department of housing and urban development, to cover costs for four individuals to attend the HUD National Policy Conference, a copy of which is on file with the city clerk as Public Document No. 08-0324-26. Grant funds will be deposited in Fund No. 100, Agency 010, Organization 1105, Revenue Source 4209-2.

Resolution 08-0197 was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

- - -

RESOLVED that city officials are hereby authorized to contract with Arrowhead Concrete Works, Inc., for the purchase and delivery of approximately 500 cubic yards of ready-mix concrete as needed in year 2008 by the street and park maintenance crews, in accordance with the city's specifications and the vendor's pricing, for an estimated amount of \$46,895 plus \$3,048.18 sales tax, for a total estimated amount of \$49,943.18, terms net 30, FOB destination, payable from the General Fund 100, Department/Agency 500, Organization 1920-2550, Object 5224.

Resolution 08-0205 was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with HD Supply Waterworks for the purchase and delivery of fire hydrants as needed during year 2008 in accordance with the city's specifications and the vendor's low bid of \$68,722 plus \$4,466.93 sales tax for a total amount of \$73,188.93, terms net 30, FOB destination, payable from the Water Fund 510, Department/Agency 500, Organization 1945, Object 5227.

Resolution 08-0206 was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED, that city officials are hereby authorized to contract with Car Truck City for the purchase and delivery of a 2008 4x4 Chevrolet Siverado 3500HD extended cab diesel pickup with an eight foot box, for the public works department, in accordance with state of Minnesota Contract #438678, Release #T-642(5), specifications and pricing in the amount of \$28,766.40 plus \$1,869.82 sales tax plus \$50 tax-exempt plates and registration, for a combined total of \$30,686.22, payable from the Stormwater Fund 535, Department/Agency 500, Organization 1905, Object 5580.

Resolution 08-0214 was unanimously adopted.
Approved March 24, 2008
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Boyer Ford Trucks for the purchase and delivery of two 2009 Sterling single axle Model L9511 trucks for the fleet services division in accordance with state of Minnesota Contract #439006, Release #T-647(5), specifications and pricing in the amount of \$190,696 plus \$12,395.24 sales tax plus \$100 tax exempt plates and registration for a total amount of \$203,191.24, terms net 30, FOB destination, payable from the Capital Equipment Fund 250, Department/Agency 015, Organization 2008, Object 5580, Project CE250-V810.

Resolution 08-0215 was unanimously adopted.
Approved March 24, 2008
DON NESS, Mayor

- - -

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 a portion of Sewer Basin 22 described herein be added to sewer basins 1, 2, 3, 4, 5, 6, 10, 11, 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, that portion of sanitary Sewer Basin 22 lying west of Swan Lake Road is hereby designated as one of the 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 basin is therefore designated as a district 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 08-0216 was unanimously adopted.
Approved March 24, 2008
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED, that Resolution 07-0357, passed on May 29, 2007, to JMF Construction, Inc., for 2007 sanitary and storm sewer manhole adjustments be amended to increase the amount by \$25,173.57 for a new total of \$92,164.57, payable from Sanitary Sewer Fund 0530 and Stormwater Fund 0535, Department/Agency 500, Organization 1905, Object 5333.

Resolution 08-0217 was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Viele Contracting, Inc., for the purchase and delivery of 13,500 tons of Class 5 gravel, 400 tons of 3/4 inch crushed washed rock, 300 tons of various sized rip rap and 300 tons of bedding sand as needed during year 2008 for the public works and utilities department in accordance with the city's specifications and the vendor's quote of \$94,189 plus \$6,122.29 sales tax for a total estimated amount of \$100,311.29, terms net 30, FOB destination, payable as follows:

(a) \$40,124.51 from the Water Fund 510, Agency 500, Organization 1945, Object 5224;

(b) \$10,031.13 from the Gas Fund 520, Agency 500, Organization 1945, Object 5224;

(c) \$30,093.39 from the Sewer Fund 530, Agency 500, Organization 1945, Object 5224;

(d) \$20,062.26 from the Stormwater Fund 535, Department/Agency 500, Organization

1945, Object 5224.

Resolution 08-0218 was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

- - -

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. 08-0324-27 with Plover Group, Inc., for services related to the management and organization issues in the city's building safety division in the amount of not to exceed \$25,000, payable from Fund 100, Agency 100, Organization 1504, Object 5441.

FURTHER RESOLVED, that the proper city officials are hereby authorized to accept donations to defray a portion of the costs associated with this agreement, said sums if any to be deposited in Fund 100, Agency 100, Organization 1504, Revenue Source 4660.

Resolution 08-0223 was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

- - -

The following resolutions were also considered:

BE IT RESOLVED, that the proper city officials are authorized to execute an amendment to the collective bargaining agreement with the city of Duluth Supervisory Association, said agreement to be substantially in the form of Public Document No. 08-0324-28 on file in the office of the city clerk.

Resolution 08-0182 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause and President Reinert -- 8

Nays: None -- 0
Abstention: Councilor Stauber -- 1
Approved March 24, 2008
DON NESS, Mayor

- - -

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota (the city), as follows:
Section 1. Purpose and authorization.

1.01 the city has entered into a contract with Johnson Controls, Inc., to provide equipment for and installation of an automated meter reading system (the equipment) for the city's water utility and gas utility meters. The equipment will benefit and become part of the city's water utility, the gas utility and the sewer utility.

1.02 Under and pursuant to Minnesota Statutes, Section 465.71 (the act), the city is authorized to purchase personal property under an installment contract, or lease personal property with an option to purchase under a lease-purchase agreement. The city council hereby determines that it is in the best interest of the city and it is necessary to finance the equipment through an installment contract or lease-purchase agreement under the act in the amount of \$9,564,617 for the purpose of financing the costs and installation of the Equipment, capitalized interest and the costs of such financing.

1.03 The city has solicited proposals to obtain financing for the Equipment through such an installment contract or lease-purchase agreement and has received an offer from Banc of America Public Capital Corporation (the lessor), to enter into a master equipment lease/purchase agreement and provide such financing for the equipment at an annual interest rate of 3.79 percent through and including February 1, 2024. Rental payments shall be made in semi-annual installments commencing August 1, 2009, subject to the city's rights of prepayment as set forth in the master equipment lease/purchase agreement. The form of the master equipment lease/purchase agreement and related schedule of property, rental payment schedule and certificates currently on file in the office of the city clerk as Public Document No. 08-0324-29 (the agreement), between the lessor and the city is hereby approved, subject to such non-material modifications approved by the mayor and finance director. The city council hereby finds this offer reasonable and proper and hereby accepts the offer. The mayor and city clerk are hereby authorized and directed to execute the agreement and other necessary closing certificates on the part of the city.

Section 2. Lease rental payment account; appropriation of lease-purchase payments.

2.01 The city hereby establishes a 2008 lease payment account within each of the water utility enterprise fund, the gas utility enterprise fund and the sewer utility enterprise fund, to which shall be deposited funds appropriated in the city's annual utility budgets to pay the rental payments under the agreement.

Section 3. Federal tax.

3.01 In order to ensure that the interest portion of the rental payments under the agreement shall be at all times excluded from gross income for purposes of federal income taxation, the city specifically represents, warrants and covenants that:

(a) It will fulfill all conditions specified in sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended (the code) and applicable treasury regulations as necessary to maintain the tax-exempt status of the interest portion of the rental payments under the agreement;

(b) During the term of the agreement, the city will not take or permit any of their officers to take any action with respect to this agreement or the equipment which would cause the interest portion of the rental payments to become includable in gross income of the lessor under the code, and will take all actions necessary to ensure that such interest remains not includable in gross income under the code insofar as they have the power and authority to take such actions;

(c) Unless the city has received an opinion of bond counsel stating that such action will not adversely affect the tax-exempt status of such interest, the city shall not enter into any contract with a non-governmental person for use or the management or operation of the water utility system, gas utility system or sewer utility system, or any part thereof, which would violate the private use tests of Section 141 of the Code;

(d) The city shall not use the equipment in a manner which will cause the agreement to become "private activity bonds" within the meaning of the code;

(e) the city will comply with and fulfill all other requirements and conditions of the code and treasury regulations and rulings issued pursuant thereto relating to the acquisition, construction and operation of the equipment financed by the agreement to the end that such interest shall at all times be exempt from federal income taxation.

3.02 The city covenants and agrees with the lessor that the city will:

(a) Take all action on its part necessary to assure that the interest on the agreement to be executed 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 agreement 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

(b) Refrain from taking any action which would cause interest on the agreement to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the agreement and investment earnings thereon on certain specified purposes.

3.03 Pursuant to Section 1.148-7(d) of the treasury regulations, relating to exception from rebate, the city hereby reasonably expects that with respect to the gross proceeds of the agreement, the following schedule will be met: (i) at least 15 percent of the gross proceeds of the agreement will be allocated to expenditures for the governmental purpose of the agreement within six months of the date of issue of the agreement; (ii) at least 60 percent of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100 percent 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 five percent of the available proceeds of the agreement, and that 100 percent of the available proceeds of the agreement will be allocated within 30 months from the date of issue of the agreement.

3.04 The city shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Resolution 08-0224 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved March 24, 2008

DON NESS, Mayor

- - -

Resolution 08-0226, confirming the appointment of Henry Banks to the community development committee, replacing Allan Beaulier, was introduced by Councilor Gardner for discussion.

Mayor Ness requested that the resolution be withdrawn from the agenda, which was done without objection.

- - -

Resolution 08-0221, authorizing city officials to contract with Deuce Complete Property Care for grass cutting in various city locations during year 2008 for an estimated amount of \$47,380, was introduced by Councilor Fosle for discussion.

Chief Administrative Officer John Hall requested that the resolution be withdrawn from the agenda, which was done without objection.

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Resolution 08-0222, approving agreement with Arrowhead Bowhunters Alliance for management of the annual deer control hunt, was introduced by Councilor Anderson for discussion.

Councilor Anderson moved to amend the resolution to add a second paragraph to read as follows:

“RESOLVED FURTHER, that the Arrowhead Bowhunters Alliance and the city shall utilize the appeal procedure, on file with the city clerk as Public Document No. _____, in administering the rules and that procedure will be a part of the agreement between the parties,” which motion was seconded and unanimously carried.

Resolution 08-0222, as amended, was adopted as follows:

RESOLVED, that the proper city officials are authorized to execute and implement an agreement, substantially the same as that on file with the city clerk as Public Document No. 08-0324-31(a), between the city and Arrowhead Bowhunters Alliance for conducting the annual deer control hunt at no net cost to the city and establishing the rules to be applied to participants in management of the hunt.

RESOLVED FURTHER, that the Arrowhead Bowhunters Alliance and the city shall utilize the appeal procedure, on file with the city clerk as Public Document No. 08-0324-31(b), in administering the rules and that procedure will be a part of the agreement between the parties.

Resolution 08-0222, as amended, was unanimously adopted.

Approved March 24, 2008

DON NESS, Mayor

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Resolution 08-0228, by Councilor Stauber, requesting the installation of historic photographs in the City Council Chamber (Phase 2), was introduced for discussion.

Resolution 08-0228 failed upon the following vote (Public Document No. 08-0324-30):

Yeas: Councilors Gilbert and Stauber -- 2

Nays: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Krause and President Reinert

-- 7

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Resolution 08-0207, by Councilor Anderson, authorizing the development of a Duluth skate park to be built at the site of the existing Peterson Arena at the Wheeler complex, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear from speakers on the resolution. Ben Olson and Joe Remark expressed their appreciation for the support from the council as the skateboarders are happy to move forward with this project.

Councilor Krause stated that there is not enough money for this project as several city parks are presently below standard and that money should be spent on them. He added that the city should wait for the economy to turn around and then spend any disposable money on a skateboard park.

Resolution 08-0207 was adopted as follows:

BY COUNCILOR ANDERSON:

The city council finds as follows:

- (a) The Duluth City Council appropriated CIP funds in 2003 for the community skate park to be built at Wheeler complex;
- (b) These funds were placed in a designated account Fund 450-030-5530-CP2003-C215;
- (c) In 2005, these funds were taken out of that account fund and used for a different purpose;
- (d) The re-energized skate park committee has conducted additional fundraising and contributed \$35,666.16 to bring current funds available amounting to \$147,370.26 to design and build Phase I in 2008;
- (e) Additional fundraising shall take place to construct Phase II in 2009;
- (f) The former Peterson hockey arena site remains undeveloped and the Wheeler skate park would be more conducive to a skate park to be built upon such vacant site and is a convenient and appropriate site for the Wheeler skate park.

THEREFORE, BE IT RESOLVED, that the Duluth City Council supports and authorizes the development of Wheeler skate park in two phases. Phase I shall be built in 2008 using \$140,000 from Fund 450-030-5530-CP2003-C215, inclusive of the available re-energized Duluth skate park committee funds in the amount of \$35,666.16 which must first be requested and transferred into the above fund. Design and development plans shall also include a Phase II to be built in 2009, conditional upon additional funds becoming available. The skate park facility shall be relocated from the area between Wheeler recreation area entrance/bocce ball courts to the vacant former Peterson Hockey Arena site.

RESOLVED FURTHER, that the Duluth City Council authorizes appropriate city officials to solicit requests for qualifications and request for proposals from qualified skate park design and design and build firms, payable out of Fund 450-030-5530-CP2003-C215, conditional upon availability of funds.

Resolution 08-0207 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved March 24, 2008

DON NESS, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR FEDORA

08-026 - AN ORDINANCE AMENDING SECTION 8-29.5 OF THE DULUTH CITY CODE, 1959, AS AMENDED; CREATING LIABILITY OF SOCIAL HOSTS FOR UNDERAGE CONSUMPTION OF ALCOHOL.

- - -

BY PRESIDENT REINERT

08-027 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING SECTION 50-118 RELATING TO INTERIM ORDINANCES.

- - -

INTRODUCED BY COUNCILOR CUNEO

08-024 - AN ORDINANCE AMENDING TAXI LICENSING PROVISIONS, ALLOWING LICENSE REVOCATION FOR ANY VIOLATION OF LAWS, AMENDING SECTION 47-17.7 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

INTRODUCED BY COUNCILOR CUNEO

08-025 - AN ORDINANCE AMENDING WRECKER SERVICE LICENSING PROVISIONS, ALLOWING LICENSE REVOCATION FOR ANY VIOLATION OF LAWS, AMENDING SECTION 33-251 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR KRAUSE

08-019 (9898) - AN ORDINANCE AMENDING SECTIONS 5-32, 5-34, 5-36, 5-37, 5-38, 5-40, 5-41 AND 5-42 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO MASSAGE ESTABLISHMENT LICENSING.

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

- - -

INTRODUCED BY COUNCILOR STAUBER

08-021 (9899) - AN ORDINANCE AMENDING SECTION 50-143 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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BY COUNCILOR ANDERSON AND PRESIDENT REINERT

08-023 - AN ORDINANCE AMENDING SECTION 29A-32 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO RENTAL LICENSING.

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

Neal Enzenauer stated that he approved of taking a hard line. He added that Duluth is a good place to own property and do business, but the current rental ordinance caused an increase in rental units and set in motion penalizing legitimate rentals and seems to be pushing them out of town. Mr. Enzenauer urged passage of the ordinance to make this a friendly place to own property.

Trent Wickman expressed concern that drawing lines on the map will create a new problem for the areas outside of the zone by pushing the renters out on the other side of the line and the best way to fix the problem is by dealing with the original ordinance before creating a new one.

He also questioned why public comment was not taken for the creation of the zone and what already limited resources will be used to enforce the regulation of this zone.

Joe Cannon urged the council to take a second look at this ordinance by letting the planning and zoning process take its course and questioned if protecting the single family zoning in Duluth is important to the city.

Susie Lannan urged the council to repeal the ordinance and volunteered to help find other solutions to use instead of the current ordinance, such as making homeowners and landlords responsible for the actions of the renters.

Dave Barschdorf stated that this is a large problem and the city needs to step up and solve it.

Kim Parmeter urged the council to focus on the unforeseen problem of homeowners not being able to rent their houses because of the 300 foot rule and looking at possible foreclosures which do not pay property taxes.

Dan Hartman suggested the council look at increasing the boundary of the zone to include the Central Hillside, which is an area where a lot of the students live, or any other area that is being turned into a rental neighborhood.

Councilor Stauber moved to table the ordinance so a committee can be put together of various interest groups to work out a solution to the problem, which motion was seconded and carried upon the following vote:

Yeas: Councilors Fedora, Fosle, Gardner, Gilbert, Krause and Stauber -- 6

Nays: Councilors Anderson, Cuneo and President Reinert -- 3

- - -

President Reinert moved to remove Resolution 08-0196, declaring city's strategy for regulation of rental housing, from the table at this time, which motion was seconded and unanimously carried.

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

Gary Kalligher reviewed that positive steps have been taken and a good foundation is being laid with the building safety division catching up with enforcement, the housing and redevelopment authority's (HRA's) buyback program is a good thing, the proposed social host ordinance will hold someone accountable for the parties and the Duluth Association for Responsible Rentals (DARR) complaint line is working.

President Reinert urged the council to approve this resolution which would show the public that the council has a plan to work on this issue.

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

Yeas: Councilors Fedora, Krause and Stauber -- 3

Nays: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert and President Reinert -- 6

President Reinert accepted a friendly amendment to the resolution to remove subparagraph (a) in the second paragraph.

Councilor Stauber moved to amend the second paragraph of the resolution by striking subparagraph (e), which motion was seconded and failed upon the following vote:

Yeas: Councilors Cuneo, Krause and Stauber -- 3

Nays: Councilors Anderson, Fedora, Fosle, Gardner, Gilbert and President Reinert -- 6

Councilor Fedora moved to amend the second paragraph of the resolution by striking subparagraph (f), which motion was seconded and carried upon the following vote:

Yeas: Councilors Fedora, Fosle, Gardner, Krause and Stauber -- 5

Nays: Councilors Anderson, Cuneo, Gilbert and President Reinert -- 4

Councilor Gilbert called the question on the resolution, which motion was seconded and unanimously carried.

Resolution 08-0196, as amended, failed upon the following vote (Public Document No. 08-0324-19):

Yeas: Councilors Anderson, Gardner, Gilbert and President Reinert -- 4

Nays: Councilors Cuneo, Fedora, Fosle, Krause and Stauber -- 5

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The meeting was adjourned at 8:45 p.m.

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

- - -

ORDINANCE NO. 9897

AN ORDINANCE AMENDING SECTIONS 45-103 AND 8-54 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO CONCURRENT USE PERMITS FOR EXPANSION OF ALCOHOLIC BEVERAGE SERVING AREAS.

The city of Duluth does ordain:

Section 1. That Section 45-103 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 45-103. Application--fee.

Before the city council shall give consideration to any ordinance granting a permit to an owner of real estate abutting on a public street allowing such owner to make concurrent use of such portion of a street not physically being so used or occupied by the public that a concurrent use would inconvenience the public use, the applicant for such a permit shall file with the city clerk an application, in writing, and accompany the same with a fee set in accordance with Section 31-6(a) of this Code, which shall cover the cost to the city of investigating and processing such application. If the application is denied, no part of the fee shall be refunded. If the application is approved, the applicant shall pay to the city clerk the cost of publication of the ordinance granting the concurrent use permit and no such ordinance shall be effective until such publication costs have been paid by the applicant. Any concurrent use permit must comply with the convenient use standard of this Section. Any concurrent use permit related to premises licensed for sale or dispensing of an alcoholic beverage must comply with the standards set out in Chapter 8 of this Code, or its successor.

Section 2. That Section 8-54 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-54. License not effective beyond space for which granted; exceptions--concurrent use permit.

(a) Licensed premises. No license shall be effective beyond the compact and contiguous space named therein for which the same was granted. If any part of the serving area of the licensed premises is outside of a fully enclosed building,

that part must comply with all the conditions set out in Section 8-54(b) or (c) or (d) that apply to the area. In addition, at the time of application or at any time an outdoor area is licensed, its operation is subject to the power of the chief of police to approve the operation, set hours of operation, set days of operation, based upon an administration review and application of uniform regulatory criteria established by the police department, which pertains to public safety, convenience, compliance with laws, neighborhood conditions, noise, parking and health. Licensed premises shall include the entire parcel of land on which the establishment is located; provided, however, that no sales or service shall take place outside the designated serving areas approved by the city council in the licensing procedure unless such sales and/or service is authorized on a temporary basis for a special event by city council resolution and shall be subject to any conditions and limitations the council deems appropriate. Before any temporary service area is authorized, the licensee shall make application, accompanied by the appropriate fee and including a diagram of the proposed area, the time and date of the event, and fencing and security measures to be taken, to the city clerk. Thereafter, the alcohol, gambling and tobacco commission shall review the matter and make any recommendation it deems appropriate to the city council. The fee for temporary expansions shall be set in accordance with Section 31-6(a) of this Code for the first day of the event and for each day thereafter. If the application is denied, all but a portion of the fee, set in accordance with Section 31-6(a) of this Code, shall be refunded to the applicant. No temporary expansion of service area shall be granted for a period of time greater than three consecutive days;

(b) Concurrent use permit for licensed premises. If any part of a licensed premises is located upon an area for which a concurrent use permit has been issued to the licensee under Section 45-103, or its successor, the use of that permitted area, and the concurrent use permit conditions, shall comply with the following:

(1) The area may be part of the licensed premises only if no privately-owned property is reasonably available to the licensee that could be used, instead, as an outdoor licensed premises;

(2) The licensee has a food and beverage service establishment license under M.S.A. Sec. 157.16, subd. 3(d)(3)(i) or (ii), or subd. 3(d)(4) and subd. 3(d)(6) or (7), and whatever food service is available anywhere else in the licensed premises is available in the permitted area;

(3) No alcoholic beverage can be served, consumed or possessed in the permitted area by any person unless he or she is seated at a table;

(4) The permitted area shall not exceed 500 square feet in area, must have an impervious surface, must, when in use, have an approved continuous perimeter barrier or fence. The fence must be approved by city clerk, police chief and the building official as meeting administrative criteria as to safety, security, regulated access and restricted means to transfer alcoholic beverages on or off the premises. The design, appearance, lighting, decoration, signage and use of the facility shall be reasonably compatible with the surrounding area, as determined by the chief administrative officer, or his/her designee;

(5) The permitted area shall be capable of being constantly observed by serving or security personnel of the licensee. Licensee shall furnish a

minimum staff of one person for a permitted area of up to 20 patron capacity and one additional staff for each additional unit of up to 20 patron capacity;

(6) The permitted area shall leave at least a six foot wide area of sidewalk that is not subject to the concurrent use permit;

(7) Any other restrictions set by the city council or in the concurrent use permit;

(c) Licensed premises outdoors on private property. If any part of the licensed premises is on privately-owned property that is not subject to an ownership or easement interest of the city of Duluth, or any other government, and that part of the licensed premises is not an "indoor area" as defined in M.S.A. Sec. 144.413, subd. 1(a), or its successor, then the use of that part of the licensed premises shall comply with all of the following:

(1) Any condition or limitation imposed by any law, ordinance, government regulation, code, license or permit, including restrictions on configuration or use that are set by the city council by ordinance or resolution;

(2) That part of the licensed premises shall not exceed in area the area of the rest of serving area of the licensed premises;

(3) That part of the licensed premises shall have an improved surface suitable for all weather pedestrian traffic, must, when in use, have a continuous perimeter barrier or fence. The barrier or fence must be approved by city clerk, police chief and the building official as meeting administrative criteria as to safety, security, regulated access and restricted means to transfer alcoholic beverages on or off the premises. The appearance, lighting, signage, visual barriers of the facility shall be reasonably compatible with the surrounding area, as determined by the chief administrative officer or his/her designee;

(4) Any food service available anywhere in the licensed premises shall be available in that part of the licensed premises. Every type of seating for dining anywhere on the licensed premises shall be available on that part of the licensed premises. In that part of the licensed premises, no alcoholic beverage shall be served, consumed or possessed by any person unless he or she is seated at a table;

(d) Pre-existing uses. Outdoor areas that were included in a licensed premises on January 1, 2008, shall be allowed to continue as a nonconforming use under, and subject to, Section 50-14, to remain in the same configuration and subject to the same restrictions of use, including hours of operation, as existed at that date, subject, however, at all times to the government's police power to control a license and sanction activities at establishments that dispense alcoholic beverages, as provided by any law, including (a) above.

Section 3. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: May 4, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

Passed March 24, 2008

ATTEST:
JEFFREY J. COX, City Clerk

Approved March 24, 2008
DON NESS, Mayor

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ORDINANCE NO. 9898

AN ORDINANCE AMENDING SECTIONS 5-32, 5-34, 5-36, 5-37, 5-38, 5-40, 5-41 AND 5-42 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO MASSAGE ESTABLISHMENT LICENSING.

The city of Duluth does ordain:

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

Sec. 5-32. Definitions.

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

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

Section 2. That Section 5-34 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 5-34. Application for license.

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

- (a) A description of services to be provided;
- (b) A description and location of the premises to be licensed;
- (c) The full names and addresses of the property owner, business owner, lessee and manager, operator and the date of birth of each;
- (d) If applicant is a corporation, the names and residence addresses of each of the officers and directors of said corporation and of each stockholder owning more than ten percent of the stock of the corporation, and the address of the corporation itself, if different from the address of the massage establishment;
- (e) If applicant is a partnership, the names and residence addresses of each of the partners including limited partners, and the address of the partnership itself, if different from the address of the massage establishment;
- (f) Whether any of the aforementioned individuals have ever been convicted of any crime or offense other than a traffic offense, and if so, a description of the offense as to time, place, date and disposition;

(g) Whether any of the aforementioned individuals has ever held a license to run a massage establishment or similar business in another jurisdiction, and, if so, whether such license was ever revoked, suspended or denied;

(h) The method of payment under which massage therapists are paid, the economic basis upon which massage therapists are paid, and the full legal name, date of birth and address of each massage therapist providing massage at the applicant's massage establishment;

(i) Whether any of the individuals identified in response to clause (e) of this Section have been disciplined by the state of Minnesota pursuant to Minnesota Statutes Chapter 146A, or its successor.

Section 3. That Section 5-36 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 5-36. Issuance.

(a) No license under this Article shall be issued unless it is approved by the chief administrative officer upon advice from the police department and unless the establishment has passed fire and health inspections. The chief administrative officer shall not approve any license if he has reasonable grounds to believe:

(1) That the granting of said license would result in violations of the law;

(2) That the license application contains false or misleading statements;

(3) That other good cause exists for denying the license;

(b) If the chief of police or chief administrative officer finds that they do not have adequate information to evaluate a license application, they may direct the applicant, manager or agent to appear at any reasonable time and place to give under oath information concerning the application. No license shall be granted to any applicant who refuses to appear and cooperate with the investigation.

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

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

(a) No massage establishment licensee shall permit any person to perform a massage in the licensee's massage establishment unless such person is licensed as a massage therapist as provided herein. No person shall massage another for compensation unless such person has obtained a massage therapist license as provided herein;

(b) Massage therapist licenses shall be issued by the city clerk after approval by the chief of police. Applicant must be 18 years of age or over, of good moral character and eligible for a license under the terms of Minnesota Statutes Chapter 364 and the provisions of this Article. Applicant must also have successfully completed a course of study in massage of not less than 500 hours from a recognized school where the theory, method, profession or work of massage is taught; except that any person licensed as a massage therapist before July 15, 2001, may continue to receive a license notwithstanding the fact such therapist has less than 500 hours of training. Applicant shall submit a diploma, certificate or other written proof of educational attainment with the application, including the name and address of the school;

(c) An application for such license shall be filed with the city clerk, which application shall state the name, address, date of birth, criminal record, identification of each massage establishment located in the city at which the applicant will perform massage, if then currently known, and other pertinent information as required by the chief of police. Upon receipt of the application the chief of police shall cause all necessary investigations to be made so that he may approve or disapprove of the license;

(d) The fee for such license shall be set in accordance with Section 31-6(a) of this Code. The license year shall be from May 1 to April 30 and shall not be prorated.

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

Sec. 5-38. Prohibited acts.

(a) No massage establishment shall:

- (1) Remain open between 1:00 a.m. and 6:00 a.m. on any day;
- (2) Hire or contract with as a massage therapist any person who is not licensed pursuant to this Article;
- (3) Allow any alcoholic beverages to be kept, sold, dispensed or consumed on the premises;
- (4) Permit massages to be given in any cubicle, room or booth with a locking door;
- (5) Violate any provision of Minnesota Statutes Chapter 146A, or its successor;

(b) No massage therapist shall:

- (1) Massage or offer to massage the genital area of any customer;
- (2) Perform or offer to perform any act prohibited by Section 34-18 of the Duluth City Code;
- (3) Violate any provision of Minnesota Statutes Chapter 146A, or its successor.

Section 6. That Section 5-40 of the Duluth City Code, 1959, as amended, be amended to read as follows:

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

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

Section 7. That Section 5-41 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 5-41. Suspension and revocation of licenses.

The chief administrative officer may revoke or suspend any license issued pursuant to this Article if, after giving the licensee an opportunity to be heard on the matter, such officer finds:

(a) The licensee has violated a provision of this Article or any other law relating to the conduct of its operation including, but not limited to, state, federal or local laws on morals, prostitution, health, fire safety or liquor; or

(b) The licensee secured the license through misrepresentation or fraud or misstated any material fact in the application; or

(c) Failure of the licensee to cooperate with police, fire or health officers in any investigation relating to their operations or failure to admit police officers into the establishment at any time when people are present in the establishment; or

(d) The establishment is operated in such a way as to endanger public health or safety; or

(e) The establishment is operated in such a way as to constitute a public nuisance.

Section 8. That Section 5-42 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 5-42. Appeals.

Any person aggrieved by a licensing decision of the chief administrative officer under this Article may appeal such decision to the city council by filing written notice of appeal with the city clerk within 15 days after such decision is rendered.

Section 9. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 4, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

Passed March 24, 2008
Approved March 24, 2008
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9899

AN ORDINANCE AMENDING SECTION 50-143 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 50-143 of the Duluth City Code, as amended, is amended to read as follows:

Sec. 50-143. Limitations on variances.

(a) Except as provided in this Section, and notwithstanding the provisions of Section 50-47 of this Code, no variance from the strict application of the requirements established in this Article shall be granted except a variation of not more than ten percent from any dimensional requirement and 20 percent from any off street parking requirement;

(b) When an approved plan is impacted as the result of a governmental taking pursuant to eminent domain powers, the limitation on variances provided in this Section shall not apply. In such case, building and parking setback variances

may be granted pursuant to Section 50-140 of this Chapter and the following standards:

(1) An application for a variance from setback standards must include a landscape plan for the setback areas. The plan must evaluate the screening effect of the proposed landscaping and improvements in the setback area with a goal of achieving a mixture of berms, landscaping, decorative fencing, decorative wall structures and other techniques that enhance the appearance of the property when viewed from surrounding public rights-of-way;

(2) Landscape requirements may be met through placement of all or a portion of the required landscaping in the rights-of-way adjacent to the setback area provided that the landscaping be subject to a perpetual maintenance agreement between the owner of the rights-of-way and the applicant and such landscaping shall not be removed by either party unless replaced with landscaping that meets the requirements of this Code;

(3) The landscape plan supporting an application to reduce setbacks to a width of ten feet or greater shall include a combination of two or more of the following elements: berms, canopy trees, shrubs, decorative fencing and other techniques that together screen the site when viewed from the public rights-of-way, such screening in the setback area between ground and an elevation four feet above the parking lot or building first floor elevation adjacent to the rights-of-way shall screen out at least 50 percent of the view;

(4) The landscape plan supporting an application to reduce setbacks to a width of between five feet and ten feet shall include a combination of two or more of the following elements: berms, ornamental trees, shrubs, decorative fencing and other techniques that together screen the site when viewed from the public rights-of-way, such screening in the setback area between ground and an elevation four feet above the parking lot or building first floor elevation adjacent to the rights-of-way shall screen out at least 50 percent of the view;

(5) Setbacks shall not be reduced to a width five feet or less unless the applicant, in addition to the required landscape plan, has submitted a site plan that meets the minimum values or dimensions set by city codes or regulations or other government laws or regulations, such as setbacks or parking lot design. The applicable minimum values or dimensions may be exceeded only where the existence of a hardship, as defined in Minnesota Statute 462.357 subd. 6(2), has been shown. Where a hardship is shown to exist, the variance from applicable minimum values or dimensions shall be the minimum necessary to provide a reasonable use. The landscape plan supporting the application shall include a combination of two or more of the following elements: shrubs, patterned walls, decorative fencing, and other techniques that together screen the site when viewed from the public rights-of-way, such screening between ground and an elevation four feet above the parking lot or building first floor elevation adjacent to the rights-of-way shall screen out at least 75 percent of the view;

(c) For the purposes of this Section, decorative fence shall be defined as powder coated steel, solid core ornamental fence, decorative wood fence, or similar. No form of chain link or highway guard rail shall be considered screening;

(d) For the purposes of this Section, patterned walls shall be defined as walls with a patterned or textured look to mimic stone or similar design or patterned to create reveals and shadow lines. No blank concrete or wood timber walls shall be permitted;

(e) All tree and shrub vegetated areas shall be constructed with drip irrigation systems to ensure plant survival. All plant species selected shall be suitable for use in Zone 3 and environments with exposure to deicing chemicals. All landscape plans shall show plant materials at 75 percent of mature size (height and width) for calculating of screening value to meet this requirement;

(f) All landscaping elements shall be continuously maintained and all nonviable plantings shall be immediately replaced.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: May 4, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed March 24, 2008

Approved March 24, 2008

DON NESS, Mayor

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, April 7, 2008, 5:39 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Absent: Councilor Krause -- 1

- - -

At this time, 5:39 p.m., President Reinert call the public hearing regarding the IKONICS Corporation JOBZ application to order. No one appeared who wished to be heard and the public hearing was declared closed at 5:40 p.m.

- - -

MOTIONS AND RESOLUTIONS

RESOLVED, that the proper city officials are authorized to enter into a JOBZ business subsidy agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 08-0407-01 with IKONICS Corporation (qualified business) related to property located at 2402 Commonwealth Avenue.

Resolution 08-0243 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 7

Nays: None -- 0

Abstention: Councilor Fedora -- 1

Absent: Councilor Krause -- 1

Approved April 7, 2008

DON NESS, Mayor

- - -

The meeting was adjourned at 5:41 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 14, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Absent: Councilor Krause -- 1

- - -

The minutes of council meetings held on February 7 and 11, 2008, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0414-01 James P. Koehler, by CMRA, LLC, et al. (five signatures) petition to reclassify from R-1 to C-5 Lots 2 and 15, Block 4, Maple Grove Acre Tracts of Duluth. -- Assessor

08-0414-02 AH Zeppa Family Foundation, by Foundations Architecture, concurrent use permit application for marquis at 220 and 222 East Superior Street. -- Planning Commission

08-0414-19 Rick and Pam Pietrusa communication regarding resolution authorizing appeal of commissioners' award in Voyageur parking lot condemnation (08-0257R). -- Received

08-0414-03 The following communications regarding rental licensing (08-026-O and 08-028-O): (a) Campus Neighbors Advisory Group; (b) Casey Knutson Carbert; (c) Julie Engen; (d) Neal Enzenauer; (e) Yolande Jenny; (f) Carol Northcott. -- Received

08-0414-20 The following communications regarding resolution requesting removal of Henry L. Banks from the planning commission (08-0234R): (a) Jerome R. Carlson; (b) Mindy Granley; (c) Jerelyn Speich. -- Received

- - -

REPORTS FROM THE ADMINISTRATION

Mayor Ness reported on that the requirements for the certification of completion for the Heritage Sports Center have been met.

Mayor Ness recognized the services of John Hall as chief administrative officer for the last two years, noting his commitment for the best interests of the city and its citizens.

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REPORTS FROM OTHER OFFICERS

08-0414-04 Assessor:

(a) Affidavit of mailing of notice of Duluth City Council public hearing at 7:00 p.m. on April 14, 2008, to be held in the Council Chamber, Third Floor, City Hall, regarding the proposed 2009 street improvement program – Morley Heights and Lakeside areas. -- Clerk

(b) Assessment roll for confirmation of the assessable portion of 2007 sidewalk patch program (Contract No. 5434; assessable amount: \$19,002.15) (08-0235R);

(c) Letter of sufficiency of petition to reclassify from R-1 to C-5 Lots 2 and 15, Block 4, Maple Grove Acre Tracts of Duluth. -- Received

08-0414-05 Clerk applications to the Minnesota gambling control board for exemptions from lawful gambling licenses from:

(a) Lincoln Park Business Group on June 14, 2008 (raffle);

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

(b) Order of AHEPA, Sam G. Solon Chapter No. 267, on May 4 and November 23, 2008 (bingo);

(c) St. Luke's Foundation on July 14, 2008 (raffle). -- Received
 08-0414-06 Parks and recreation department director Lake Superior Zoological Society minutes of February 20, 2008, meeting. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

08-0414-07 Alcohol, gambling and tobacco commission minutes of March 5, 2008, meeting. -- Received

08-0414-08 Commission on disabilities minutes of March 5, 2008, meeting. -- Received

08-0414-09 Civil service board minutes of: (a) January 15; (b) February 5; (c) March 5, 2008, meetings. -- Received

08-0414-10 Community development committee minutes of December 11, 2007, meeting. -- Received

08-0414-11 Duluth public arts commission minutes of March 24, 2008, meeting. -- Received

08-0414-12 Entertainment and convention center authority minutes of March 25, 2008, meeting. -- Received

08-0414-13 Housing and redevelopment authority minutes of: (a) January 29 (annual); (b) January 29 (regular); (c) February 26, 2008, meetings. -- Received

08-0414-14 Library board minutes of February 26, 2008, meeting. -- Received

08-0414-15 Parks and recreation commission minutes of February 13, 2008, meeting. -- Received

08-0414-16 Spirit Mountain recreation area authority minutes of: (a) December 13, 2007; (b) January 17; (c) February 21, 2008, meetings. -- Received

08-0414-17 Tree commission minutes of: (a) January 15; (b) February 19, 2008, meetings. -- Received

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

RESOLVED, that pursuant to Duluth City Code Section 8-56(d), Resolution 07-0723 adopting license, permit and fee charges for 2008 be amended to add the following fees:

Clerk	
License, permit, fee name	2008 Fee
Alcoholic beverage	
Intoxicating liquor	
On sale	
Consumption and display permit	

Clerk		
License, permit, fee name		2008 Fee
	Annual	\$300.00
	One day	\$25.00
	Culinary class - annual	\$200.00
	Theater - annual	\$300.00

Resolution 08-0233 was unanimously adopted.
 Approved April 14, 2008
 DON NESS, Mayor

- - -

RESOLVED, that the assessment roll levied to defray the assessable portion of sidewalk patch 2007 (Contract #5434; assessable amount: \$19,002.15), to be deposited in Fund 325, is hereby confirmed.

Resolution 08-0235 was unanimously adopted.
 Approved April 14, 2008
 DON NESS, Mayor

- - -

RESOLVED, that the budget for the fiscal year May 1, 2008, to April 30, 2009, in the amount of \$4,067,478, including the 2008 repair and replacement budget in the amount of \$225,000 as set out in the budget on file with the city clerk as Public Document No. 08-0414-22 for the Spirit Mountain recreation area authority is hereby approved.

FURTHER RESOLVED, the city acting through the city finance director, shall make available a line of credit up to \$250,000, to be drawn upon as needed, to assist in the management of cash flow within the budget as approved, same to be repaid in full (to a zero balance) at least once per calendar year, by October 31 of that year. If repaid as agreed with the city finance director, no interest shall be charged. The city finance director may authorize the transfer of money from the city to the authority for use consistent with the authority's budget, based upon a showing of need and of a reasonable probability of repayment by October 31 of each year as set forth above. The city finance director shall determine the forms, procedures and supporting documentation that will be required to draw on the line of credit. Such transactions shall be subject to audit and public disclosures.

Resolution 08-0250 was unanimously adopted.
 Approved April 14, 2008
 DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with New World Systems Corporation for year 2008 system software and implementation costs in accordance with specifications and the vendor's quote of \$52,250 plus \$3,396.25 sales tax for a total amount of \$55,646.25, and payable as follows:

- (a) \$8,200.50 from Capital Equipment Fund 250, Department/Agency 015, Organization 2005, Object 5580; Project CE250-E502; and
- (b) \$47,445.75 from the following utility funds, Agency 500, Organization 1915, Object 5201:
 - (1) \$13,759.27 from Water Fund 510;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

- (2) \$18,503.84 from Gas Fund 520;
- (3) \$10,912.52 from Sewer Fund 530;
- (4) \$4,270.12 from Stormwater Fund 535.

Resolution 08-0238 was unanimously adopted.

Approved April 14, 2008

DON NESS, Mayor

- - -

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 Sites

- | Licensee | Gambling Sites |
|-------------------------------------|--|
| Duluth Softball Players Association | <ul style="list-style-type: none">• Bedrock Bar, 2023 West Superior Street• Rustic Bar, 401 North Central Avenue• Player's Sports Bar, 4024 Grand Avenue |

Resolution 08-0245 was unanimously adopted.

Approved April 14, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with ERS Audits for professional services in auditing telecommunication services, billing and related documents for the city of Duluth management information systems division with said services to be provided at no cost to the city until the city receives refunds or credits, or realizes savings, and with said agreement to be substantially in the form of Public Document No. 08-0414-23 on file in the office of the city clerk.

Resolution 08-0249 was unanimously adopted.

Approved April 14, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specification for the civil service classification of network administrator, which were approved by the civil service board on March 13, 2008, and which are filed with the city clerk as Public Document No. 08-0414-24, 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.

Resolution 08-0229 was unanimously adopted.

Approved April 14, 2008

DON NESS, Mayor

- - -

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 March 13, 2008, and which are filed with the city clerk as Public Document No. 08-0414-25, 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, \$3,923 to \$4,664 per month.

Resolution 08-0230 was unanimously adopted.
Approved April 14, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of Librarian I, which were approved by the civil service board on March 6, 2007, and which are filed with the city clerk as Public Document No. 08-0414-26, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 131.

Resolution 08-0239 was unanimously adopted.
Approved April 14, 2008
DON NESS, Mayor

- - -

CITY PROPOSAL:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of Librarian II, which were approved by the civil service board on March 6, 2007, and which are filed with the city clerk as Public Document No. 08-0414-27, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 133.

Resolution 08-0240 was unanimously adopted.
Approved April 14, 2008
DON NESS, Mayor

- - -

BE IT RESOLVED, that the proper city officials are authorized to execute and implement an employment contract with Lisa Potswald for the position of chief administrative officer, which contract is on file with the city clerk as Public Document No. 08-0414-18.

Resolution 08-0255 was unanimously adopted.
Approved April 14, 2008
DON NESS, Mayor

- - -

RESOLVED, that the city council has determined it is in the public interest to sell the property described below to White Pine Development, without bids, as allowed by Section 2-177, because the sale will further a plan for development of the area in accordance with a land sale agreement that the purchaser has entered into with the Duluth economic development authority (DEDA) whereby the purchaser will incorporate the property into a housing development that will result in approximately 23 building lots and at least 70 acres of open space, which is congruent with the comprehensive land use plan legally described as: Lots 8 through 13 inclusive, all in Block 3, Lake View Manor Division (FN 07159).

Resolution 08-0096 was unanimously adopted.
Approved April 14, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to enter into a lease agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-0414-28 with the Minnesota department of transportation (Mn/DOT) to lease off street parking space for city police and fire department vehicles beneath Mn/DOT Bridge No. 69879 near

the intersection of 59th Avenue West and Roosevelt Street at a cost of \$500 per year, payable from General Fund 100-015-1515-5411.

Resolution 08-0242 was unanimously adopted.
Approved April 14, 2008
DON NESS, Mayor

- - -

The city council finds:

- (a) The city of Duluth is home to the fifth oldest children's museum in the nation, the Duluth Children's Museum, a regional attraction; and
- (b) Over 70,000 visitors annually benefit from the educational programs and services offered by the Duluth Children's Museum; and
- (c) The Duluth Children's Museum is positioned to expand the use of rotating exhibits to better serve the interests of the residents of our community and those who visit the Museum from across the globe; and
- (d) By expanding exhibition offerings, the Duluth Children's Museum will enhance its educational services to all students of the region; and
- (e) Having a vibrant and strong cultural organization that is focused on the celebration of area youth strengthens the livability of the city of Duluth and the northern Minnesota region.

THEREFORE, BE IT RESOLVED, that the city of Duluth supports the Duluth Children's Museum request for \$400,000 in FY09 earmark funding and urges our distinguished Congressman James Oberstar and senators Amy Klobuchar and Norm Coleman to do all that they can to secure the full amount of this request, and requests congressional approval.

BE IT FURTHER RESOLVED, that the clerk shall send a copy of the resolution to Congressman Oberstar, Senator Klobuchar and Senator Coleman.

Resolution 08-0256 was unanimously adopted.
Approved April 14, 2008
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to renew the contract with Ace Property Maintenance, Inc., the second year of a potential three-year contract, for grass cutting in various city locations during year 2008 in accordance with the city's specifications and the vendor's quote, for an estimated amount of \$47,380, terms net 30, FOB job sites, payable from various funds, agencies, organizations and objects.

Resolution 08-0221 was unanimously adopted.
Approved April 14, 2008
DON NESS, Mayor

- - -

RESOLVED, that Resolution 06-0443, passed on June 12, 2006, awarding Performance Pipelining, Inc., a contract for 2006 cured-in-place pipe (CIPP) rehabilitation of sanitary sewer laterals in Basin #1 be amended to increase the amount by \$232,479 for a new total of \$1,156,929, payable from Sanitary Sewer Fund 0530, Department/Agency 500, Organization 1970, Object 5335, City Project No. 0548SN.

Resolution 08-0231 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Approved April 14, 2008
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Duncan Technologies, Inc., for the purchase and delivery of parking meters and meter replacement parts for the traffic maintenance division in accordance with specifications and the vendor's quote of \$83,391.60 plus \$5,420.45 sales tax for a total amount of \$88,812.05, terms net 30, FOB destination, payable from the Parking Fund 505, Agency 015, Organization 1481, Object 5241.

Resolution 08-0237 was unanimously adopted.

Approved April 14, 2008
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Groebner & Associates, Inc., for the year 2008 purchase and delivery of high pressure gas parts for the department of public works and utilities in accordance with the city's specifications and the vendor's low bid of \$38,813.77 plus \$2,522.90 sales tax, for a total amount of \$41,336.67, terms net 25, FOB destination, payable from the Gas Fund 520, Department/Agency 500, Organization 1945, Object 5227.

Resolution 08-0241 was unanimously adopted.

Approved April 14, 2008
DON NESS, Mayor

- - -

RESOLVED, the city of Duluth must undertake a major water system improvement project at the Arlington Pump Station. The city of Duluth desires to develop plans and specifications for the construction of improvements for the Arlington Pump Station and desires to hire a consultant engineer to provide the engineering services required for the design and construction administration. MSA Professional Services, Inc., was rated the top ranked firm and has submitted a proposal for engineering services in connection with this project.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with MSA Professional Services, Inc., to provide the city of Duluth with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$251,831 is payable from the Water Bond Fund 0511, Department/Agency 500, Object 5332, Job Number 0695WA.

Resolution 08-0247 was unanimously adopted.

Approved April 14, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into Mn/DOT Agreement No. 92504, a copy of which is on file in the office of the city clerk as Public Document No. 08-0414-29, with the Minnesota state department of transportation to perform landscaping services related to the old Duluth, Winnipeg and Pacific Railroad rail yard in West Duluth as set forth in State Project No. 6982-289 in an amount of not to exceed \$25,605.15, payable to Fund 411, Agency 035, Object 5403.

Resolution 08-0252 was unanimously adopted.

Approved April 14, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an agreement with St. Louis County and the city of Hermantown, a copy of which is on file in the office of the city clerk as Public Document No. 08-0414-30, to install a new signal system at the intersection of Haines Road and Anderson Road as set forth in State Project No. 69-691-22, in an amount not to exceed \$10,000, payable from the working Permanent Improvement Fund 0411, Department/ Agency 035, Object 5530, and would be reimbursed from city's municipal state aid construction account, City Project No. 0670TR.

Resolution 08-0253 was unanimously adopted.

Approved April 14, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with ICOP Digital, Inc., for the 2008 tax-exempt purchase and delivery of ten in-car video surveillance systems and associated software for the Duluth police department in accordance with specifications and the vendor's quote of \$52,230.15, terms net 30, FOB destination (police radio shop), payable from the Capital Equipment Fund 250, Department/Agency 015, Object 5580, Project CE250-V803.

Resolution 08-0236 was unanimously adopted.

Approved April 14, 2008

DON NESS, Mayor

- - -

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a lease, substantially the same as that on file with the city clerk as Public Document No. 08-0414-31, for space at 214-216 West Superior Street for a renewable term of three years, rent being cost of utilities and improvements only, to be used as a community police office.

Resolution 08-0246 was unanimously adopted.

Approved April 14, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Polaris Library Systems for the tax-exempt purchase and delivery of software and hardware maintenance on the library's Polaris integrated library system during year 2008 in accordance with city specifications and Polaris' quote of \$29,127.73, terms net 30, payable from General Fund 100, Agency 300, Organization 1702, Object 5404.

Resolution 08-0244 was unanimously adopted.

Approved April 14, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized to accept a grant from the Northland Foundation in the amount of \$20,000, and to execute the grant agreement; said agreement to be substantially in the form of Public Document No. 08-0414-32 on file in the office of the city clerk; funds to be deposited in Fund 210, Agency 030, Organization 3107.

Resolution 08-0251 was unanimously adopted.

Approved April 14, 2008

DON NESS, Mayor

- - -

At this time, the public hearing on the 2009 street improvement program (08-0248R) began.

Pat Mlakar, engineering staff person, reviewed the scope of the proposed plan and answered councilors' questions.

Kevin O'Brien and John Bartikoski spoke in support of the proposed plan for the Morley Park area, noting in particular: Sparkman Avenue is in extremely bad shape and receives a lot of cut-through traffic and that the petition of the residents requests that there be bump-outs at both ends of Sparkman Avenue and signage, to defray individuals from using that as a cut-through street (Public Document No. 08-0414-21); the through traffic is going well over 30 miles per hour; consideration should be given to designating the street as a dead end at Livingston; the yield sign at the corner of Sparkman and Livingston should be changed to a stop sign and that there be a three-way stop located at the corner of Silcox and Sparkman and Lower Vermillion and Sparkman.

At this time, there were no more speakers and the public hearing was declared closed.

- - -

At this time, the public hearing on the VISI JOBZ application began.

Heidi Timm-Bijold, business developer, reviewed the scope of the project, the city's involvement and the parties involved.

Lisa Heyesen, business development manager for Area Partnership for Economic Expansion (APEX), reviewed the nature of their involvement on this data center project.

Michael Sowada, chief executive officer of VISI, described what services their company provides, the size of the Duluth structure and workforce, anchor tenant and financing.

Andy Peterson, representing the Duluth Area Chamber of Commerce, expressed the chamber's support for this project.

At this time, there were no more speakers, and the public hearing was declared closed and the regular order of business was resumed.

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The following resolutions were also considered:

WHEREAS, the Duluth economic development authority (DEDA) commenced an eminent domain action in 2005 to permanently acquire air rights over property owned by the American Voyager Motel, Inc., and to temporarily acquire the entire property for construction for the development of the First Street Medical District Parking Ramp (the ramp), which action is entitled "Duluth Economic Development Authority, Petitioner v. American Voyager Motel, Inc., et al., Respondents" and is filed in St. Louis County District Court as Court File No. 69DU-CV-05-532 (the condemnation); and

WHEREAS, DEDA has transferred its interest in the property and in the agreements related thereto to city and city has undertaken the liability for acquiring the property for the ramp and for its operation, including responsibility for paying the award of damages and costs of the condemnation; and

WHEREAS, the commissioners in condemnation have awarded damages to the respondent in the condemnation in the amount of \$545,640, an amount which the city finds to be in excess of the value of the taking.

RESOLVED, that the city attorney is directed to appeal the award of damages in the above condemnation case.

Resolution 08-0257 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert and President Reinert -- 7

Nays: Councilor Stauber -- 1

Absent: Councilor Krause -- 1

Approved April 14, 2008

DON NESS, Mayor

- - -

The city council of the city of Duluth hereby finds the following:

(a) The Duluth City Council adopted Resolution No. 03-0731 which authorized the Arrowhead Regional Development Commission to act as job opportunity building zone (JOBZ) zone sponsor and administrator and to make program commitments on behalf of the city of Duluth;

(b) The Minnesota department of employment and economic development (DEED) approved the northeast Minnesota regional JOBZ application for 4,031 acres, including 351.12 acres within the city of Duluth;

(c) The Duluth City Council adopted Resolution No. 04-0236 designating those 351.12 acres within the city of Duluth into 11 subzones, including 40.0 acres in the Canadian National Subzone #100;

(d) A portion of the Subzone #100 site is not desirable for industrial or other JOBZ-related development;

(e) The city of Duluth wishes to reallocate 12.35 acres from Subzone #100 and form a new subzone of 12.35 acres which will be called the Duluth Technology Park Subzone #100.1 and further wishes to provide for the possibility of providing JOBZ benefits to businesses whose expansion or relocation may occur on the 12.35 acre project site;

(f) The JOBZ program created in Minnesota Session Laws 2003, First Special Session, Chapter 21, Article 1, allows for the formation of tax free zones and for subzone boundaries to be amended with the approval of all taxing authorities.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth approves a modification to the Canadian National Subzone #100 by removing a total of 12.35 acres from said subzone having the following parcel identification number: 010-2746-1380.

BE IT FURTHER RESOLVED, that the city of Duluth does hereby approve the creation of a new subzone of 12.35 acres called the Duluth Technology Park Subzone #100.1 (Parcel Identification #010-1356-00010, -00020 and -00030), approves the use of tax exemptions and tax credits within said subzone (subject to proper review and approval by the Minnesota department of employment and economic development (DEED) and the other appropriate taxing authorities with the zones), and agrees to provide all of the local tax exemptions and credits required and provided for under the JOBZ legislation and agrees to forego the tax benefits resulting from the same.

Resolution 08-0259 was unanimously adopted.

Approved April 14, 2008

DON NESS, Mayor

- - -

RESOLVED, that, contingent upon the creation of a new JOBZ subzone called the Duluth Technology Park Subzone #100.1, the proper city officials are authorized to enter into a JOBZ business subsidy agreement substantially in the form of that on file in the office of the city clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

as Public Document No. 08-0414-33 with VISI Incorporated and Digital North Properties II, LLC, (qualified business) related to property located in the Duluth Technology Park.

Resolution 08-0260 was unanimously adopted.

Approved April 14, 2008

DON NESS, Mayor

- - -

Resolution 08-0234, by Councilor Fedora, requesting removal of Henry L. Banks from Duluth planning commission, was introduced for discussion.

Councilor Fedora, as the author of this resolution, requested that the resolution be removed from the agenda, and there being no objections, it was so ordered.

- - -

Resolution 08-0248, ordering the improvement known as the 2009 street improvement program pursuant to Section 61(B) of the Home Rule Charter of the city of Duluth at an estimated cost of \$1,635,600, was introduced by Councilor Fosle for discussion.

Councilor Fosle moved to table the resolution for a report on the overall picture of the street improvement program, which motion was seconded and unanimously carried.

- - -

Resolution 08-0232, authorizing the proper city officials to enter into a contract with Erling R. Hansen, General Contractors, Inc., for the fire restoration and remodeling of the Harrison Recreation Center in the amount of \$286,000, was introduced by Councilor Anderson for discussion.

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

Joe Perfetti spoke in support of the resolution and noted that the community supported the common goal of this restoration.

Resolution 08-0232 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract (Public Document No. 08-0414-34) with Erling R. Hansen, General Contractors, Inc., for the fire restoration and remodeling of the Harrison Community Club in accordance with its low specification bid of \$286,000, payable out of Capital Fund 450, Department/Agency 030, Object 5535, CP 2007 OT-0721.

Resolution 08-0232 was unanimously adopted.

Approved April 14, 2008

DON NESS, Mayor

- - -

Resolution 08-0261, by Councilor Anderson, honoring city of Duluth library employees, was introduced for discussion.

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

David Ouse, library director, spoke in support of the resolution, noting the great work the employees are doing, especially under the construction work that is being done, in order to still get books to the patrons.

Resolution 08-0261 was adopted as follows:

BY COUNCILOR ANDERSON:

The city council finds:

- (a) April 15 is national library workers day; and
 - (b) Our great city has strong libraries with 65 dedicated workers who help minds soar;
- and
- (c) Our talented library workers help more than 50,000 borrowers find the information they need to learn, prosper and have fun; and
 - (d) Our library workers offer free and equal access to a world of knowledge regardless of age, income or background; and
 - (e) Our library workers embrace change and constantly reinvent their services to meet the demands of the information age; and
 - (f) Duluth residents made nearly 500,000 visits to our three libraries last year; and
 - (g) Our libraries are being used more than ever with less financial backing due to cuts in state aid to local government; and
 - (h) Our libraries work well because AFSCME library workers do.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth celebrate national library workers day by honoring the contributions of its AFSCME, and other, library workers who are dedicated to satisfying our community's hunger for knowledge.

Resolution 08-0261 was unanimously adopted.

Approved April 14, 2008

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCE TABLED

BY COUNCILOR ANDERSON AND PRESIDENT REINERT

08-023 - AN ORDINANCE AMENDING SECTION 29A-32 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO RENTAL LICENSING.

President Reinert announced that Councilor Anderson and himself wish to remove this ordinance from the agenda, which was done without objection.

- - -

The following entitled ordinances were read for the first time:

BY COUNCILORS GILBERT AND GARDNER

08-020 - AN ORDINANCE AMENDING SECTION 50-55.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO KEEPING CHICKENS IN CITY.

- - -

INTRODUCED BY COUNCILOR STAUBER

08-008 - AN ORDINANCE AUTHORIZING THE SALE OF A HALF ACRE OF UNDEVELOPED PARK IN LAKE VIEW MANOR DIVISION TO WHITE PINE DEVELOPMENT FOR \$7,900.

- - -

BY COUNCILORS FEDORA, ANDERSON, FOSLE AND PRESIDENT REINERT

08-028 - AN ORDINANCE AMENDING SECTION 29A-32 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO RENTAL LICENSING.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Kim Parmeter expressed concern that an owner-occupied duplex cannot get a rental license and that the current ordinance sends a negative message to both renters and rental owners.

- - -

INTRODUCED BY COUNCILOR CUNEO

08-029 - AN ORDINANCE AMENDING SECTION 2-18.2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO PRE-CHARGE DEFERRAL.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR FEDORA

08-026 (9900) - AN ORDINANCE ADDING A NEW SECTION 8-29.5 TO THE DULUTH CITY CODE, 1959, AS AMENDED; CREATING LIABILITY OF SOCIAL HOSTS FOR UNDERAGE CONSUMPTION OF ALCOHOL.

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

- - -

BY PRESIDENT REINERT

08-027 (9901) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING SECTION 50-118 RELATING TO INTERIM ORDINANCES.

Councilor Stauber expressed the following concerns: that just with the "introduction" of an ordinance, it would become a law; that the time from the introduction of the ordinance, the first reading, the planning commission consideration and other delays, it could extend final passage out for months and that all commercial development would come to a halt just with the introduction of an ordinance.

Assistant City Attorney Lutterman explained at length that this ordinance: allows for interim uses by means of a resolution; that it must be co-sponsored by at least three councilors and that it has to be approved by a majority of the council.

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner and President Reinert -- 6

Nays: Councilors Gilbert and Stauber -- 2

Absent: Councilor Krause -- 1

- - -

INTRODUCED BY COUNCILOR CUNEO

08-024 (9902) - AN ORDINANCE AMENDING TAXI LICENSING PROVISIONS, ALLOWING LICENSE REVOCATION FOR ANY VIOLATION OF LAWS, AMENDING SECTION 47-17.7 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

INTRODUCED BY COUNCILOR CUNEO

08-025 (9903) - AN ORDINANCE AMENDING WRECKER SERVICE LICENSING PROVISIONS, ALLOWING LICENSE REVOCATION FOR ANY VIOLATION OF LAWS, AMENDING SECTION 33-251 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

The meeting was adjourned at 8:34 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9900

BY COUNCILOR FEDORA:

AN ORDINANCE ADDING A NEW SECTION 8-29.5 TO THE DULUTH CITY CODE, 1959, AS AMENDED; CREATING LIABILITY OF SOCIAL HOSTS FOR UNDERAGE CONSUMPTION OF ALCOHOL.

The city of Duluth does ordain:

Section 1. That the Duluth City Code, 1959, as amended, be amended by adding a new Section 8-29.5 to read as follows:

Sec. 8-29.5. Social host allowing consumption by minor.

(a) Purpose and findings.

The city council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption. A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs;

(b) Definitions.

For purposes of this Section, the following terms have the following meanings:

(1) Alcohol. Alcohol means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced;

(2) Event or gathering. Event or gathering means any group of three or more persons who have assembled or gathered together for a social occasion or other shared activity;

(3) Host. Host means to aid, conduct, allow, entertain, organize, supervise, control or permit a gathering or event. Host does not include a landlord, mortgagee, hotel or motel owner or operator who has not actually participated in knowingly furnishing alcohol for an event or gathering;

(4) Parent. Parent means any persons having legal custody of a juvenile:

- (A) As natural, adoptive parent or stepparent;
- (B) As a legal guardian; or
- (C) As a person to whom legal custody has been given by

order of the court;

(5) Person. Person means any individual, partnership, co-partnership, corporation or any association of one or more individuals;

(6) Residence or premises. Residence or premises means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented or used with or without permission or compensation;

(7) Underage person. Underage person is any individual under 21 years of age;

(c) Prohibited acts.

(1) It is unlawful for any person(s) to host or allow an event or gathering at any residence, premises, or on any other private or public property where alcohol or alcoholic beverages are present, and when the person knows, or reasonably should know, that an underage person will, or does, consume any alcohol or alcoholic beverage or possess any alcohol or alcoholic beverage with the intent to consume it, and the person fails to take reasonable steps to prevent possession or consumption by the underage person;

(2) A person is criminally responsible for violating this Section if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act;

(3) A person who hosts an event or gathering need not be present at the event or gathering to be criminally responsible for a violation of this Section;

(d) Exceptions.

(1) This ordinance does not apply to conduct solely between an underage person and his or her parents while present in the parent's household;

(2) This ordinance does not apply to legally protected religious observances;

(3) This ordinance does not apply to licensed retail sellers of intoxicating liquor or 3.2 percent malt liquor, or bottle club permit holders, who are regulated by Minn. Stat. Chapter 340A, or Duluth City Code Chapter 8;

(4) This ordinance does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment;

(5) This ordinance does not apply to medical procedures or treatment authorized by a physician, nor to law enforcement activities supervised by a law enforcement agency;

(e) Enforcement. This ordinance can be enforced by any police or peace officer of the state;

(f) Penalty. Violation of this Section is punishable as set out in Section 1-7.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: May 18, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: None -- 0

Absent: Councilor Krause -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed April 14, 2008

Approved April 14, 2008

DON NESS, Mayor

- - -

ORDINANCE NO. 9901

BY PRESIDENT REINERT:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING SECTION 50-118 RELATING TO INTERIM ORDINANCES.

The city of Duluth does ordain:

Section 1. That Chapter 50 of the Duluth City Code, 1959, as amended, be amended to amend Section 50-118 to read as follows:

Sec. 50-118. Interim ordinances and uses.

(a) Upon introduction of an interim ordinance to the city council, the council may provide for the imposition of interim uses. The imposition of interim uses shall be done by the introduction of a resolution sponsored by at least three council members. The resolution establishing interim uses may provide that no use, development, project or subdivision for which an application has not been previously filed shall be established or expanded, nor shall any application for a license, building permit, administrative waiver, review or approval of any application, including an application for any zoning approval, which concerns both the geographical area and subject matter of the interim ordinance filed after the introduction of the interim ordinance, be granted or further processed, pending a final decision on the adoption of the interim ordinance;

(b) Upon final adoption of an interim ordinance, the following restrictions shall apply:

(1) No permits, licenses or other approvals of any kind which concern both the geographical area and subject matter of the interim ordinance shall be processed or issued except in accordance with its terms;

(2) No use, development, project or subdivision which concerns both the geographical area and subject matter of the interim ordinance shall be established or expanded except in accordance with its terms;

(c) If the interim ordinance is not adopted, the resolution establishing interim uses shall be null and void and requests for permits and other necessary approvals shall be processed promptly in accordance with the procedures governing the request.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: May 18, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner and President Reinert -- 6

Nays: Councilors Gilbert and Stauber -- 2

Absent: Councilor Krause -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 14, 2008
Approved April 14, 2008
DON NESS, Mayor

- - -

ORDINANCE NO. 9902

AN ORDINANCE AMENDING TAXI LICENSING PROVISIONS, ALLOWING LICENSE REVOCATION FOR ANY VIOLATION OF LAWS, AMENDING SECTION 47-17.7 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 47-17.7 of the Duluth City Code 1959, as amended, is hereby amended to read as follows:

Sec. 47-17.7. Same--Suspension and revocation.

The chief administrative officer of the city is hereby given authority to suspend any license issued under this Article for cause for a period of not more than 30 days. A hearing upon five days' notice to licensee shall be required prior to such a suspension.

The chief administrative officer of the city is hereby given authority to revoke any license issued under this Article for cause after hearing upon five days' notice to the licensee. The licensee may, within 30 days, appeal such revocation to the city council, which shall give such licensee an opportunity to be heard at or prior to its next regular meeting following the appeal. The council may, at such meeting, reinstate such license by resolution.

Sufficient cause for suspension or revocation shall include, but not be limited to the following:

(a) Violation of any of the provisions of this Article by the licensee, his employees or any other person operating under the licensee's license;

(b) Violation of any other ordinance of the city or any state or federal law by the licensee, his employees or any other person operating under the licensee's license that relates to the licensed business.

Any licensee's license may be revoked or suspended for the actions of any driver driving a taxicab which is operated pursuant to the licensee's license,

regardless of the type of contractual or business relationship between the driver and the licensee.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: May 18, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: None -- 0

Absent: Councilor Krause -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 14, 2008
Approved April 14, 2008
DON NESS, Mayor

- - -

ORDINANCE NO. 9903

AN ORDINANCE AMENDING WRECKER SERVICE LICENSING PROVISIONS, ALLOWING LICENSE REVOCATION FOR ANY VIOLATION OF LAWS, AMENDING SECTION 33-251 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 33-251 of the Duluth City Code, 1959, as amended, is hereby amended to add a new sub-subsection 16 thereto which reads as follows:

Sec. 33-251. License--revocation, suspension and disapproval of application.

(a) The following shall be grounds for the chief of police to revoke, suspend or disapprove of the application for any license issued under the provisions of this Article:

- (1) Filing false information on an application;
- (2) Failing to inform the city clerk of changes in required information within ten days of such change;
- (3) Failure to have an insurance policy as required in this Article in force;
- (4) Charging more than the rates allowed under this Article, or having done so in the past;
- (5) Evading or attempting to evade the wrecker service fee limitations of this Article by providing services or performing acts not reasonably necessary under the circumstances;
- (6) Violation by the licensee applicant or by any employee thereof of any provision of this Article;
- (7) Use by the licensee of any trade name for his wrecker service other than the one registered with the city clerk or operating any wrecker service vehicle without the name of the proper wrecker service posted in the directed

manner on such vehicle or with the name of another wrecker service appearing in place of the proper name;

(8) Two or more violations by a licensee or his employees of traffic laws of the city of Duluth or the state of Minnesota while furnishing wrecker services within one year;

(9) Soliciting business at the scene of an accident;

(10) Providing service which manifests a substantial lack of care or competence, or both, in the provision of wrecker service;

(11) Failure to respond to the scene of an accident at the request of the chief of police or failure to respond to the scene of an accident within 20 minutes of being summoned by the chief of police;

(12) Failure or refusal, when requested or summoned by the chief of police, to tow a disabled vehicle from a zone where the service is on the rotation list;

(13) Failure to clean up debris left at the scene of an accident when responding to the chief of police's request to tow a disabled vehicle at such scene;

(14) Failure to allow a rightful claimant of a towed vehicle to regain control of it within one hour of receipt of a request therefor, whether in person, in writing or by telephone, providing that appropriate payments are tendered;

(15) Failure to have or properly maintain any equipment or storage facilities , including secured indoor storage, required by this Article;

(16) A conviction of the licensee or its employee of any law or ordinance, other than a single traffic offense, arising out of or in conjunction with the licensed business of licensee.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: May 18, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: None -- 0

Absent: Councilor Krause -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 14, 2008
Approved April 14, 2008
DON NESS, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 28, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Stauber and President Reinert -- 7

Absent: Councilors Gilbert and Krause -- 2

- - -

The minutes of council meetings held on February 26, March 10 and 24, 2008, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0428-05 Laurelei Gunsolus communication pertaining to keeping chickens in the city (08-020-O). -- Received

08-0428-06 John Sanford communication pertaining to the proposed amendment of Traditional Neighborhood District No. 2 (08-032-O). -- Received

08-0428-07 The following communications pertaining to rental licensing (08-28-O and 08-033-O): (a) Jim Aird; (b) Alison Clarke; (c) David and Ann Flemming; (d) Yolande Jenny; (e) Robert and Karen Kilpo; (f) Mark Lutterman; (g) Yvonne Patterson. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

08-0428-01 Duluth human rights commission minutes of March 12, 2008, meeting. -- Received

08-0428-02 Parks and recreation commission minutes of March 12, 2008, meeting. -- Received

08-0428-03 Planning commission minutes of: (a) February 27; (b) March 11, 2008, meetings. -- Received

08-0428-04 Spirit Mountain recreation area authority minutes of: (a) March 20; (b) March 31, 2008, meetings. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Dave Barschdorf reviewed the parking problem on his street because of college students and urged the city to put up no parking signs on the street as cars are parked there all the time.

- - -

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED, that the city council of the city of Duluth hereby issues off sale 3.2 percent malt liquor license renewals and 2:00 a.m. beverage license renewals for the period beginning May 1, 2008, and ending April 30, 2009, 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. 08-0428-08.

Resolution 08-0291 was unanimously adopted.

Approved April 28, 2008

DON NESS, Mayor

- - -

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, 2008, and ending April 30, 2009, 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. 08-0428-09.

Resolution 08-0292 was unanimously adopted.

Approved April 28, 2008

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following consumption and display license by the liquor control commissioner for the period beginning April 1, 2008, and ending March 31, 2009, subject to departmental approvals and the payment of sales and property taxes:

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

Resolution 08-0293 was unanimously adopted.

Approved April 28, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of heavy equipment operator, which were approved by the civil service board on April 1, 2008, and which are filed with the city clerk as Public Document No. 08-0428-10, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 27.

Resolution 08-0254 was unanimously adopted.

Approved April 28, 2008

DON NESS, Mayor

- - -

RESOLVED, that Lisa Potswald, chief administrative officer to the mayor, is hereby designated as the responsible authority for data practices as defined by Section 13.02, subdivision 16, of Minnesota Statutes 2007.

BE IT FURTHER RESOLVED, that Resolution 07-0023 adopted January 16, 2007, be rescinded.

Resolution 08-0262 was unanimously adopted.

Approved April 28, 2008

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED, that the appointment by Mayor Ness to the parking commission of Jamie A. Kumbera-Tupper (District 2 representative) for a term expiring on July 1, 2009, replacing Thomas Bennett, is confirmed.

FURTHER RESOLVED, that the appointment by Mayor Ness to the parking commission of Steve Horn (at large representative), for a term expiring on July 1, 2010, replacing Jamie A. Kumbera-Tupper, is confirmed.

Resolution 08-0272 was unanimously adopted.

Approved April 28, 2008

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the parks and recreation commission of Joel Braun (Planning District 9 representative) for a term expiring on February 13, 2009, replacing Wendy Grethen who resigned, is confirmed.

Resolution 08-0273 was unanimously adopted.

Approved April 28, 2008

DON NESS, Mayor

- - -

RESOLVED, that the appointments by Mayor Ness to the commission on disabilities of Sara Junge and Frances B. McGee, for terms expiring on November 1, 2008, replacing Hilary Buckwalter and Jennifer Murphy who resigned, are confirmed.

FURTHER RESOLVED, that the appointment by Mayor Ness to the commission on disabilities of Patti Nadeau, for a term expiring on November 1, 2009, replacing Bridget Riversmith who resigned, is confirmed.

Resolution 08-0274 was unanimously adopted.

Approved April 28, 2008

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the Duluth public arts commission of Katheryn Krikorian, for a term expiring on September 30, 2008, replacing Susan K. Anderson, is confirmed.

FURTHER RESOLVED, that the reappointment by Mayor Ness to the Duluth public arts commission of Donald Dass, for a term expiring on September 30, 2010, is confirmed.

Resolution 08-0286 was unanimously adopted.

Approved April 28, 2008

DON NESS, Mayor

- - -

RESOLVED, that the reappointment of Maria Danz and the appointment of Benjamin J. Briggs, replacing Lisa Kane who resigned, by Mayor Ness to the Duluth human rights commission for terms expiring on April 20, 2011, are confirmed.

Resolution 08-0289 was unanimously adopted.

Approved April 28, 2008

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth (the city) hereby authorizes the submission of a contamination cleanup grant program application to the department of employment and economic development (DEED) on May 1, 2008, for the IKONICS expansion project (the application).

BE IT FURTHER RESOLVED, that the city act as the legal sponsor for the project described in the application and that the mayor of the city is hereby authorized to apply to DEED for \$614,216 in funding for 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 in the amount of up to \$204,739 is committed to the project from DEDA operating Fund 860 and from the IKONICS Corporation, all subject to acceptance of the grant.

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 acceptance thereof shall be subject to further resolution of the council authorizing such acceptance and designating the sources of the matching funds and the amount to be committed from each such fund.

BE IT FURTHER RESOLVED, that the city certifies that it will comply with all applicable laws and regulations as stated in all contract agreements it accepts.

Resolution 08-0282 was unanimously adopted.

Approved April 28, 2008

DON NESS, Mayor

- - -

The city council finds as follows:

(a) A sufficient petition was filed with the city clerk requesting the vacation of a pedestrian easement for a skywalk within the building at 309-311 West First Street, owned by Landsmenn Energy Service Partners, certain public areas for skywalk easement within Lot 53, West First Street, Duluth Proper First Division, Duluth, Minnesota; and

(b) The property owner has requested termination of Agreement Number 457412, entitled, "Pedestrian Passageway Agreement Pertaining to the Universal Electric Building," approved by the Duluth City Council on October 31, 1983, with Edward C. Vittorio, Pam M. Vittorio, Leroy W. Moore, and Peggy N. Moore, as requested by the building's new owners, Landsmenn Energy Service Partners, LLC; and

(c) 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

(d) The planning commission, at its April 8, 2008, regular meeting, approved unanimously the recommendation to vacate the easement as recommended by planning staff; and

(e) There is no continuing public need for the easement and circumstances described in the file show that it is in the public's interest to vacate the current easement for future skywalk needs.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to terminate the Agreement Number 457412, approved by the Duluth City Council on October 31, 1983, with Edward C. Vittorio, Pam M. Vittorio, Leroy W. Moore, and Peggy N. Moore, as requested by the building's new owners, Landsmenn Energy Partners, LLC.

FURTHER RESOLVED, upon such termination, said officials are authorized to vacate a pedestrian easement for Downtown skywalk expansion, within the building located at 309-311

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

West First Street, legally described as certain public areas for skywalk easement within Lot 53, West First Street, Duluth Proper First Division, Duluth, Minnesota.

Resolution 08-0283 was unanimously adopted.
Approved April 28, 2008
DON NESS, Mayor

- - -

RESOLVED, that proper city officials are hereby authorized to amend Contract No. 20675, in substantially the form of the amendment on file with the city clerk as Public Document No. 08-0428-11, with St. Louis County to provide food support employment and training (FSET) program services at costs not to exceed \$55,030.50 for the period October 1, 2007, through September 30, 2008. Said monies under this agreement shall be received from Funding Source 4260 (St. Louis County) and deposited in Fund 268, Agency 031, Organization 6237 (FSET).

Resolution 08-0258 was unanimously adopted.
Approved April 28, 2008
DON NESS, Mayor

- - -

The city council finds:

(a) That the city of Duluth desires field and laboratory testing services, and desires to hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems for fiscal year 2008;

(b) Golder Associates has submitted a fee schedule for field and laboratory testing services in connection with this work.

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Golder Associates to provide the city with such field and laboratory services, and that the cost of said field and laboratory services, estimated at a total of \$15,000 for fiscal year 2008, will be paid from Fund 100, Department 500, Organization 2300, Object 5541.

Resolution 08-0170 was unanimously adopted.
Approved April 28, 2008
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Stepp Manufacturing Company, Inc., for the purchase and delivery of two pothole patch trailer units, Stepp Pre-Mix Heater Model SPH-3.0, with options and warranty, for the fleet services division in accordance with state of Minnesota Contract #437145, Release P-844(5), specifications and pricing in the amount of \$54,618 plus \$3,550.17 sales tax for a total amount of \$58,168.17, terms net 30, FOB destination, payable from the Capital Equipment Fund 250, Agency 015, Organization 2008, Object 5580, Project CE250-V811.

Resolution 08-0263 was unanimously adopted.
Approved April 28, 2008, 2008
DON NESS, Mayor

- - -

RESOLVED, that Resolution 06-0637, passed September 11, 2006, authorizing Contract #20273 with Advanced Engineering and Environmental Services, Inc., be amended to allow additional professional engineering services in year 2008 for updating the water utility cost of service and rate design study, an increase of \$7,500 and a new total of \$40,954, payable from the Water Fund 510, Agency 500, Organization 1915, Object 5310.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Resolution 08-0264 was unanimously adopted.
Approved April 28, 2008
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with RRC Carlson Brothers, Inc., for the construction of Duluth Steam District One hot water supply and return lines to the Hampton Inn, 310 Canal Park Drive, in accordance with plans and specifications and the contractor's low bid of \$35,380, terms net 30, and payable from the Steam Fund 540, Agency 920, Organization 1499, Object 5530.

Resolution 08-0265 was unanimously adopted.
Approved April 28, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter in to a contract with Kalkbrenner Plumbing & Heating, Inc., for the 2008 rehabilitation of private sanitary sewer services in basins 25 and 26 in the amount of \$137,600, payable out of the Sanitary Sewer Fund 0530, Agency 500, Organization 1970, Object 5535, City Project No. 0694SN (Phase I).

Resolution 08-0267 was unanimously adopted.
Approved April 28, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Hoffman and McNamara, Inc., for the landscaping project located near the former DW&P Railroad yard, located at 69th Avenue West and Raleigh Street, in the amount of \$16,935, payable out of Capital Improvement Fund 0411, Department/Agency 035, Object 5403, City Project Number 0681TR, S.P. 6982-289.

Resolution 08-0275 was unanimously adopted.
Approved April 28, 2008
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Flexible Pipe Tool Company for the purchase and delivery of a 2008 Sterling Bullet 4x4 crew cab and chassis unit complete with a mounted sewer rodding machine in accordance with city specifications and the vendor's low bid of \$79,751 plus \$5,183.82 sales tax plus \$50 tax exempt plates and registration, for a total amount of \$84,984.82, terms net 30, FOB destination, payable from the Sewer Fund 530, Agency 500, Organization 1905, Object 5580.

Resolution 08-0276 was unanimously adopted.
Approved April 28, 2008
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Luther Family Chevrolet for the purchase and delivery of a 2009 GMC 4500 cab and chassis unit with service body and options in accordance with city specifications and the vendor's bid of \$79,449 plus \$5,164.19 sales tax plus \$50 tax exempt plates and registration, for a total amount of \$84,663.19, terms net 30, FOB destination, and payable as follows: \$50,797.91 from the Water Fund 510 and \$33,865.28 from the Gas Fund 520, Agency 500, Organization 1905 and Object 5580.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Resolution 08-0279 was unanimously adopted.
Approved April 28, 2008
DON NESS, Mayor

- - -

RESOLVED, that Resolution 07-0547 to Krech Ojard & Associates for furnishing professional engineering services be amended to increase the amount by \$56,978 for a new total of \$201,200, payable out of Street Improvement Fund 0440, Department/Agency 038, Object 5530, City Project No. 0625TR.

Resolution 08-0280 was unanimously adopted.
Approved April 28, 2008
DON NESS, Mayor

- - -

RESOLVED, that plans for Project No. 69-691-22 showing proposed alignment, profiles, grades and cross-sections for the construction, reconstruction or improvement of County State Aid Highway No. 91 (Haines Road) within the limits of the city as a state aid project have been prepared and presented to the city, and that said plans be in all things approved.

Resolution 08-0284 was unanimously adopted.
Approved April 28, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized to execute an agreement, filed as Public Document No. 08-0428-12, 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 \$7,672; payable from Fund 100-500-1920-2560-5441.

Resolution 08-0287 was unanimously adopted.
Approved April 28, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into first amendment to Agreement No. 19939 with Reyelts, Leighton, Bateman, Hylden and Sturdevant, Ltd., a copy of which is on file in the office of the city clerk as Public Document No. 08-0428-13, to increase the amount by \$5,000 to a new maximum of \$15,000; payment from Self Insurance Fund 605-036-1651-5304.

Resolution 08-0288 was unanimously adopted.
Approved April 28, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized to accept a grant, a copy of which is on file in the office of the city clerk as Public Document No. 08-0428-14, from the Northland Foundation for the "What's Cookin' at your Library/Kids Cafe—A Summer Reading Program Birth-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

6th Grade project” in the amount of \$8,300, said sum to be deposited in Fund 210, Agency 030, Organization 3107, Revenue Source 4270, and to execute all documents necessary thereto.

Resolution 08-0266 was unanimously adopted.

Approved April 28, 2008

DON NESS, Mayor

- - -

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. 08-0428-15, with the College of St. Scholastica for the non-exclusive use of Wade Stadium for their baseball program with rent payments payable to Fund 210, Agency 030, Organization 3190, Revenue Source 4625-04.

Resolution 08-0285 was unanimously adopted.

Approved April 28, 2008

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 08-0271, approving Laws of Minnesota 2008, Chapter 154, Article 5, as required by MSA Section 645.021, subd. 3 (regarding city’s food and beverage tax), was introduced by President Reinert for discussion.

Councilor Gardner moved to table the resolution for consideration with accompanying ordinances 08-030 and 08-031 on May 12, which motion was seconded and failed unanimously.

Resolution 08-0271 was adopted as follows:

BE IT RESOLVED, that the city of Duluth, acting through its governing body, approves and accepts the act of the state government, a special law affecting Duluth, Laws of Minnesota 2008, Chapter 154, Article 5, Section 2, on file in the office of the city clerk as Public Document No. 08-0428-16, as required by MSA Section 645.021, subd. 2.

BE IT FURTHER RESOLVED, that the clerk shall promptly file with the secretary of state the certification required by MSA Section 645.021, subd. 3.

Resolution 08-0271 was unanimously adopted.

Approved April 28, 2008

DON NESS, Mayor

- - -

Resolution 08-0268, confirming the reappointments of James P. Berry, Jon Helstrom and Howard Jacobs to the building appeal board, was introduced by Councilor Gardner for discussion.

Councilor Gardner moved to table the resolution for Councilor Krause to address the issue at the next council meeting, which motion was seconded and unanimously carried.

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city clerk requesting the vacation of Wilbur Street between Blackman Avenue and Orange Street adjacent to Lots 8 and 9 of Asialas Garden Tracts of Duluth and Lot 11, Block 4 Car Line Gardens; and

(b) 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 (FN 08017); and the city planning commission found that the petitioned street is useless, based on the

findings that, because the petitioned street is too narrow to be developed as a street without acquiring additional lands, there are no plans to improve the street, there are no utilities within the street and considerable wetlands would limit development of the street; and

(c) The planning commission, at its April 8, 2008, regular meeting, did approve, unanimously, vacating the street petitioned for vacation; and

(d) That the city council of the city of Duluth approves the vacation of the following and as more particularly described on Public Document No. 08-0428-17:

That part of Wilbur Street lying between the west line of Blackman Avenue and the east line of Orange Street; and

(e) That the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the street and alley to be vacated.

Resolution 08-0269 was unanimously adopted.

Approved April 28, 2008

DON NESS, Mayor

- - -

Resolution 08-0270, denying the vacation of Wilbur Street between Blackman Avenue and Orange Street (Tiili/Johnson), was introduced by Councilor Stauber for consideration.

Resolution 08-0270 failed upon a unanimous vote (Public Document No. 08-0428-18).

- - -

RESOLVED, that:

(a) An application was filed with the city clerk requesting a special use permit for a marina for property described as Lots 7-19 (odd numbers), St. Louis Avenue, Lower Duluth (FN 08018); and

(b) Pursuant to Section 50-32(n) of Article IV 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

(c) The planning commission, at its April 8, 2008, regular meeting, recommended approval of the request with conditions; and

(d) The approval was made because of the city planning commission 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.

BE IT FURTHER RESOLVED, that the city council of the city of Duluth approves a special use permit for a marina, subject to the following conditions:

(a) The permit is renewed for a period of 15 years from the effective date of this resolution; and

(b) Terms and conditions of Resolution No. 89-0862 continue to be complied with; and

(c) The property continue to be maintained in accordance with Public Document No. 89-1010-20 for the term of this permit.

Resolution 08-0277 was unanimously adopted.

Approved April 28, 2008

DON NESS, Mayor

- - -

Resolution 08-0278, denying a special use permit to Sand Point Yacht Club for a marina, was introduced by Councilor Stauber for consideration.

Resolution 08-0278 failed upon a unanimous vote (Public Document No. 08-0428-19).

- - -

Resolution 08-0281, denying amendments to Ordinance 9586 amending Traditional Neighborhood District No. 2, property bounded on the north by 13th Street, on the east by Central Entrance, on the south by 11th Street and on the west by Second Avenue West, was introduced by Councilor Stauber for consideration.

Councilor Stauber moved to table the resolution for consideration with Ordinance 08-032 on May 12, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR GILBERT

08-030 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF UP TO \$41,500,000 GENERAL OBLIGATION DECC IMPROVEMENT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL, PLEDGING CERTAIN FOOD AND BEVERAGE SALES TAX RECEIPTS AND OTHER REVENUES.

- - -

INTRODUCED BY COUNCILOR GILBERT

08-031 - AN ORDINANCE IMPOSING AN ADDITIONAL THREE QUARTERS OF ONE PERCENT FOOD AND BEVERAGE TAX, AMENDING SECTIONS 42A-2, 42A-44 AND 42A-50 OF THE DULUTH CITY CODE.

- - -

BY COUNCILORS GARDNER AND CUNEO

08-033 - AN ORDINANCE AMENDING SECTION 29A-32 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO RENTAL LICENSING.

President Reinert moved to amend Section 1 of the ordinance to add a new paragraph (j) to Section 29A-32 to read as follows:

“(j) The distance restrictions provided in clause (f) and (g) of this Section shall not apply to a single family or two family dwellings that is subject to a purchase agreement for the sale of the dwelling when all of the following conditions are met:

(1) The dwelling is occupied by the seller; and
(2) The buyer and seller agree that the buyer may occupy the dwelling prior to completion of the sale; and

(3) The buyer, pursuant to a written early occupancy agreement between the buyer and seller, occupies the dwelling; and

(4) The sales transaction is completed or cancelled in writing within 120 days from the date that the date of the written early occupancy agreement,”

which motion was seconded and unanimously carried.

President Reinert moved to amend the ordinance by renumbering Section 2 to Section 3 and adding a new Section 2 to read as follows:

“Section 2. That sections 29A-32(f), (g), (h), and (j) of the Duluth City Code, 1959, as amended, shall expire and be of no force and effect after midnight on June 20, 2008,”

which motion was seconded and carried upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner and President Reinert -- 6
Nays: Councilor Stauber -- 1
Absent: Councilors Gilbert and Krause -- 2

- - -

INTRODUCED BY COUNCILOR STAUBER

08-032 - AN ORDINANCE AMENDING ORDINANCE 9586 AMENDING TRADITIONAL NEIGHBORHOOD DISTRICT NO. 2, PROPERTY BOUNDED ON THE NORTH BY 13TH STREET, ON THE EAST BY CENTRAL ENTRANCE, ON THE SOUTH BY 11TH STREET AND ON THE WEST BY SECOND AVENUE WEST.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILORS GILBERT AND GARDNER

08-020 - AN ORDINANCE AMENDING SECTION 50-55.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO KEEPING CHICKENS IN CITY.

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

Kimberly Meyer urged the councilors to consider some compromises on the limitations set by the proposed ordinance.

Councilor Gardner moved to table the ordinance for a planning commission report, which motion was seconded and unanimously carried.

- - -

INTRODUCED BY COUNCILOR STAUBER

08-008 - AN ORDINANCE AUTHORIZING THE SALE OF A HALF ACRE OF UNDEVELOPED PARK IN LAKE VIEW MANOR DIVISION TO WHITE PINE DEVELOPMENT FOR \$7,900.

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Stauber and President Reinert -- 7

Nays: None -- 0

Absent: Councilors Gilbert and Krause -- 2

[Editor's Note: The sale of park land must be approved by 8/9ths of the city council. Since only seven councilors were present at this council meeting, the ordinance was reconsidered and unanimously adopted at the May 12, 2008, council meeting.]

- - -

BY COUNCILORS FEDORA, ANDERSON, FOSLE AND PRESIDENT REINERT

08-028 - AN ORDINANCE AMENDING SECTION 29A-32 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO RENTAL LICENSING.

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

Steve Walters urged the council to remove the 300 foot rule and change it to something that will be more effective and easier to enforce.

Vicki Peterson expressed her opposition to the 300 foot rule, requested clarification on the definitions in the ordinance and added that it places unfair restrictions on people who have rental property.

Jim Larson stated that he understands the reasoning for limiting rentals, but it makes it unfair for homeowners who want to rent out their house because of financial need.

Gary Kalligher requested clarification on several items of Ordinance 08-033.

Frank Rohde urged the council to finally make a decision on the issue of rescinding the 300 foot rule.

Councilor Fedora stated that the current ordinance is impacting people who are not the problem and not addressing the people who have caused the issue.

Councilor Fedora moved to table the ordinance, which motion failed for lack of a second.

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

- - -

INTRODUCED BY COUNCILOR CUNEO

08-029 - AN ORDINANCE AMENDING SECTION 2-18.2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO PRE-CHARGE DEFERRAL.

Councilor Cuneo moved to table the ordinance at the administration's request, which motion was seconded and unanimously carried.

- - -

COUNCILOR QUESTIONS AND COMMENTS

President Reinert moved the suspension of the standing rules for the summer meeting schedule, which motion was seconded and unanimously carried.

- - -

The meeting was adjourned at 7:55 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 12, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Absent: Councilor Cuneo -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0512-01 Duluth Teachers Credit Union, et al. (three signatures), petition to vacate alleyways at corner of Arrowhead Road and Kenwood Avenue. -- Assessor

08-0512-02 Steve Lindberg, et al. (11 signatures), petition for reclassification from R-1 to C-5 Lots 4 and 5, Block 31, Duluth Heights, Sixth Division. -- Assessor

08-0512-08 Phyllis Kahn communication regarding proposed ordinance pertaining to keeping chickens in the city (08-020-O). -- Received

08-0512-09 The following communications regarding rental licensing (08-033-O): (a) Jim Gearn; (b) Alice Mae Guckin; (c) John Powers; (d) Sandy Robinson; (e) Susan Schumacher; (f) Thomas Stanley; (g) MJ Weir. -- Received

08-0512-10 The following communications regarding proposed resolution committing to a plan to protect public health and preserve Lake Superior by eliminating sanitary sewer overflows (08-0312R): (a) Casey Knutson Carbert; (b) Ted Chura; (c) Mark Lutterman. -- Received

- - -

REPORTS FROM OTHER OFFICERS

08-0512-03 Clerk application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from Ducks Unlimited, Chapter Arrowhead 023, on September 4, 2008. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

08-0512-04 Civil service board minutes of April 1, 2008, meeting. -- Received

08-0512-05 Duluth/North Shore Sanitary District minutes of March 12, 2008, meeting. -- Received

08-0512-06 Duluth transit authority: (a) Income statement for January 2008; (b) Minutes of February 27, 2008, meeting. -- Received

08-0512-07 Entertainment and convention center authority building committee minutes of April 21, 2008, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Jerry Schalafer spoke on his suggestion that the \$5 million budget crisis of the city could be solved by having the approximately 60,000 adult citizens contribute \$83 a year, \$7 a month or \$.23 a day.

- - -

RESOLUTIONS TABLED

Councilor Gardner moved to remove Resolution 08-0268, confirming the reappointments of James P. Berry, Jon Helstrom and Howard Jacobs to the building appeal board, from the table, which motion was seconded and unanimously carried.

Councilor Krause felt that, not as a personal reflection on these individuals, but that it is in the better interest of the community that the city should have new individuals that will bring new and diverse perspectives to our boards and commissions.

Resolution 08-0268 was adopted as follows:

RESOLVED, that the reappointments by Mayor Ness to the building appeal board of James P. Berry (commercial building construction representative), Jon Helstrom (registered architect representative) and Howard Jacobs (registered engineer representative), for terms expiring on February 1, 2011, are confirmed.

Resolution 08-0268 was adopted upon the following vote:

Yeas: Councilors Anderson, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 7

Nays: Councilor Krause -- 1

Absent: Councilor Cuneo -- 1

Approved May 12, 2008

DON NESS, Mayor

- - -

Councilor Stauber moved to remove Resolution 08-0281, denying amendments to Ordinance 9586 amending Traditional Neighborhood District No. 2, property bounded on the north by 13th Street, on the east by Central Entrance, on the south by 11th Street and on the west by Second Avenue West, from the table, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCE

INTRODUCED BY COUNCILOR STAUBER

08-032 (9904) - AN ORDINANCE AMENDING ORDINANCE 9586 AMENDING TRADITIONAL NEIGHBORHOOD DISTRICT NO. 2, PROPERTY BOUNDED ON THE NORTH BY 13TH STREET, ON THE EAST BY CENTRAL ENTRANCE, ON THE SOUTH BY 11TH STREET AND ON THE WEST BY SECOND AVENUE WEST.

Councilor Stauber moved to suspend the rules to consider Ordinance 08-032 at this time, which motion was seconded and unanimously carried.

- - -

Resolution 08-0281 failed upon a unanimous vote (Public Document No. 08-0512-11).

- - -

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

- - -

RESOLUTION TABLED

Councilor Fosle moved to remove Resolution 08-0248, ordering the improvement known as the 2009 street improvement program pursuant to Section 61(b) of the Home Rule Charter of

the city of Duluth at an estimated cost of \$1,635,600, from the table, which motion was seconded and unanimously carried.

Resolution 08-0248 was adopted as follows:

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. 08-0512-12 on file with the office of the city clerk; that the costs of said improvement estimated at \$1,635,600 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 08-0248 was unanimously adopted.

Approved May 12, 2008

DON NESS, 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 Reinert moved passage of the consent agenda, which motion was seconded and unanimously carried.

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On April 2, 2008, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Minnesota Nights, Inc., d/b/a Tap Room, 402 West First Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 08-0512-13;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on May 12, 2008, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 08-0512-13 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Minnesota Nights, Inc., d/b/a Tap Room, 402 West First Street, are adopted.

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 revoke all licenses issued pursuant to Minnesota Nights, Inc., d/b/a The Tap Room, and pursuant to Chapter 8 of the city of Duluth Legislative Code.

Resolution 08-0294 was unanimously adopted.

Approved May 12, 2008

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED, that the reappointment by Mayor Ness to the animal humane board of Michael Hargrove, for a term expiring on October 31, 2012, is confirmed.

FURTHER RESOLVED, that the appointment by Mayor Ness to the animal humane board of James F. Williams, for a term expiring on October 31, 2009, replacing Janis Stern who resigned, is confirmed.

Resolution 08-0295 was unanimously adopted.

Approved May 12, 2008

DON NESS, Mayor

- - -

RESOLVED, that the reappointment by Mayor Ness to the environmental advisory council of Cynthia Hagley (environmental representative), for a term expiring on January 5, 2011, is confirmed.

FURTHER RESOLVED, that the appointment by Mayor Ness to the environmental advisory council of John Doberstein (at large representative), for a term expiring on January 5, 2011, replacing Louise Curnow, is confirmed.

Resolution 08-0296 was unanimously adopted.

Approved May 12, 2008

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the community development committee of Patricia S. Tyler (at large representative), for a term expiring on March 1, 2011, replacing Joseph Matthes, is confirmed.

Resolution 08-0307 was unanimously adopted.

Approved May 12, 2008

DON NESS, Mayor

- - -

The city council finds as follows:

(a) The state of Minnesota historical society (MNHS) administers United States department of interior funds, for use by certified local governments (CLG), for qualifying historic preservation purposes; and

(b) The city of Duluth has applied for financial assistance from the MNHS's CLG grant program, for the purpose of securing professional services to conduct the second phase of an intensive historic survey of the city's east end residential area.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to act as legal sponsor of said grant, to execute any documents required to be executed to accept such grant (Public Document No. 08-0512-14), and to accept donations of \$2,000 from the Duluth Preservation Alliance (DPA) and \$1,000 from Carolyn Sundquist. The grant and donation will be accounted for in Fund 210, Agency 030, Organization 3150, revenue sources 4210-02 and 4660.

Resolution 08-0300 was unanimously adopted.

Approved May 12, 2008

DON NESS, Mayor

- - -

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. 08-0512-15, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

\$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 1920-2550, Revenue Source 4654-02.

Resolution 08-0290 was unanimously adopted.

Approved May 12, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized to execute an agreement, filed as Public Document No. 08-0512-16, 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 \$12,604; payable from Fund 100-500-1920-2560-5441.

Resolution 08-0298 was unanimously adopted.

Approved May 12, 2008

DON NESS, Mayor

- - -

RESOLVED that city officials are hereby authorized to contract with Northland Constructors of Duluth, LLC, for the purchase of hot mix fine and cold mix regular as needed for the contract year beginning June 1, 2008, and ending May 31, 2009, for the public works department in accordance with St. Louis County's bid specifications and the vendor's bid of \$358,940.40 (hot mix fine) plus \$115,500 (cold mix regular) for a total of \$474,440.40 plus \$30,838.63 sales tax for a combined total of \$505,279.03, terms net 30, FOB picked up, and payable from each of the funds as follows:

\$ Amount	Fund	Agency	Organization	Object
\$434,456.53	General Fund 100	500	1920-2550	5222
\$42,493.50	Water Fund 510	500	1945	5222
\$7,082.25	Gas Fund 520	500	1945	5222
\$14,164.50	Sewer Fund 530	500	1945	5222
\$7,082.25	Stormwater Fund 535	500	1945	5222

Resolution 08-0301 was unanimously adopted.

Approved May 12, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Insituform Technologies USA, Inc., for 2008 cured-in-place pipe (CIPP) rehabilitation of sanitary sewers in various locations, in the amount of \$218,915, payable out of Sanitary Sewer Bond Fund 0531, Department/Agency 500, Object 5532, City Project Number 0667SN.

Resolution 08-0302 was unanimously adopted.

Approved May 12, 2008

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Nels Nelson & Sons, Inc., for 2008 street improvement in Lakeside-Rockview, in the amount of \$1,349,995, payable out of Street Improvement Fund 0440, Department/Agency 038, Object 5530, City Project Number 0625TR.

Resolution 08-0303 was unanimously adopted.

Approved May 12, 2008

DON NESS, Mayor

- - -

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 21, 2008, to coincide with Grandma's Marathon special events license, 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 08-0297 was unanimously adopted.

Approved May 12, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Municipal Emergency Services, Inc., for the tax-exempt purchase and delivery of Globe G-Xtreme turnout gear (coats, pants, and suspenders) for the fire department during the contract year from June 1, 2008, through May 31, 2009, with the renewal option of 24 additional months, in accordance with city specifications and the vendor's bid of \$63,090.39, net 30, payable as follows:

(a) \$10,258.50 from the General Fund 100, Agency 100, Organization 1502, Object 5218;

(b) \$27,185.65 from the General Fund 100, Agency 100, Organization 1502, Object 5241;

(c) \$25,646.24 from the Capital Equipment Fund 250, Agency 015, Organization 2008, Object 5580, Project No. CE250-E803.

Resolution 08-0305 was unanimously adopted.

Approved May 12, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a maintenance agreement with St. Louis County in year 2008 for computer hardware and software associated with participation in a shared integrated criminal justice information system called NEMESIS (Northeastern Minnesota Enforcement and Safety Information System) for \$52,582.16, terms net 30, payable from General Fund 100, Agency 200, Organization 1610, Object 5404.

Resolution 08-0306 was unanimously adopted.

Approved May 12, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept the donation of unconditional monetary gifts from the Friends of the Duluth Public Library during 2008 for use by

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

the Duluth public library, said gifts to be deposited in Fund 240, Agency 300, Organization SG50, Revenue Source 4660, and, on behalf of the city, thank the Friends of the Duluth Public Library for their generous gifts.

Resolution 08-0299 was unanimously adopted.

Approved May 12, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-0512-17, with the Park Point Community Club allowing them to use Park Point property to stage the Park Point Art Fair through 2012 in an amount of not to exceed \$1,500 per year, payable to Fund 100, Agency 400, Organization 1812, Revenue Source 4170-01.

Resolution 08-0309 was unanimously adopted.

Approved May 12, 2008

DON NESS, Mayor

- - -

The following resolutions were also considered:

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, 2008, through September 30, 2008, at no cost to the authority.

Resolution 08-0310 was adopted upon the following vote:

Yeas: Councilors Anderson, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 7

Nays: None -- 0

Abstention: Councilor Fedora -- 1

Absent: Councilor Cuneo -- 1

Approved May 12, 2008

DON NESS, Mayor

- - -

Resolution 08-0315, establishing salary and employment conditions for the city attorney for years 2008 and 2009, was introduced for discussion.

Councilor Krause moved to table the resolution for more information on the changes, which motion was seconded and failed upon the following vote:

Yeas: Councilors Anderson, Fosle, Krause and Stauber -- 4

Nays: Councilors Fedora, Gardner, Gilbert and President Reinert -- 4

Absent: Councilor Cuneo -- 1

Resolution 08-0315 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to implement Exhibit A to this resolution, except for any typographical corrections, the same as that which is on file in the office of the city clerk as Public Document No. 08-0512-18, which sets forth employment conditions for the city attorney for the years 2008 and 2009.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED FURTHER, that the person appointed to the position of city attorney pursuant to Section 26 of the City Charter shall be entitled to the employment conditions specified in Exhibit A to this resolution.

RESOLVED FURTHER, that effective on July 1, 2008, the monthly salary for the city attorney shall be as follows:

(a) The monthly salary beginning July 1, 2008, of the person appointed to the position of city attorney pursuant to Section 26 of the City Charter shall be no less than \$5,976 per month and no more than \$9,051 per month;

(b) That the monthly salary beginning January 1, 2009, of the person appointed to the position of city attorney pursuant to Section 26 of the City Charter shall be no less than \$6,155 per month and no more than \$9,322 per month;

(c) The exact rate of pay of the city attorney shall be determined by the city council upon recommendation of the mayor, who shall make such determination based upon the skills and experience of the city attorney or the results of a periodic evaluation of the city attorney's job performance, or both;

(d) That the monthly salary for the person serving as the city attorney on the effective date of this resolution shall be \$8,853 per month.

RESOLVED FURTHER, that the city shall reimburse the license fee paid by the city attorney, which is necessary to maintain professional licensure necessary to engage in the practice of law in the state of Minnesota.

RESOLVED FURTHER, that this resolution, including Exhibit A, shall not apply to any individual performing the duties of the city attorney in an acting or interim capacity.

RESOLVED FURTHER, that the provisions of Resolution 07-0041, to the extent that those provisions relate to the city attorney are superceded by this resolution.

Resolution 08-0315 was adopted upon the following vote:

Yeas: Councilors Anderson, Fedora, Fosle, Gardner, Gilbert and President Reinert -- 6

Nays: Councilors Krause and Stauber -- 2

Absent: Councilor Cuneo -- 1

Approved May 12, 2008

DON NESS, Mayor

- - -

Resolution 08-0304, approving budget and cost sharing formula of Minneapolis-daleth/Superior passenger rail alliance, accepting donations and authorizing payment of city's cost share of \$45,000, was introduced for discussion.

President Reinert moved to table the resolution, as per the request of Councilor Cuneo, which motion was seconded and carried upon the following vote:

Yeas: Councilors Anderson, Fosle, Gardner, Gilbert, Krause and President Reinert -- 6

Nays: Councilors Fedora and Stauber -- 2

Absent: Councilor Cuneo -- 1

- - -

Resolution 08-0311, by President Reinert, establishing protocol for council-administration policy development, was introduced for discussion.

Councilor Krause expressed concern about Section (b) and that each councilor has diverse skills and interests, and that each councilor has a different ability on how to pass on information.

Resolution 08-0311 was adopted as follows:

BY PRESIDENT REINERT:

The city council finds:

(a) It is in the best interest of the city for the council and the administration to communicate effectively on matters of public policy development; and

(b) At the council's annual retreat, the council and the administration discussed a shared protocol for public policy development.

NOW, THEREFORE, BE IT RESOLVED, the council will utilize the following protocol for the development of a policy initiative and strongly encourage the administration to do the same:

(a) The administration will e-mail or update the appropriate council committee chair on major policy initiatives and projects;

(b) The council committee chair will attend department updates and/or communicate directly with department heads. Councilors will use the committee reports section of the agenda to provide the council with up to date information or to highlight items relevant to the councilor's assigned committee;

(c) The council will use committee meetings to discuss complex projects or policy discussion. Attendance at the meetings is expected by committee members and is open to other councilors;

(d) For an individual councilor initiative, he or she shall:

(1) Give the council and chief administrative officer up to date information as far in advance as feasible;

(2) Schedule an early meeting which includes the appropriate committee chair and department head(s);

(e) The council will utilize reports from the administration and committee reports during the agenda session to provide brief, up to date information on major projects and issues on the horizon.

Resolution 08-0311 was adopted upon the following vote:

Yeas: Councilors Anderson, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 7

Nays: Councilor Krause -- 1

Absent: Councilor Cuneo -- 1

Approved May 12, 2008

DON NESS, Mayor

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RESOLVED, that the city of Duluth hereby finds that:

(a) There is a need for all energy consumers to work to conserve valuable energy resources through reduction in demand, especially peak demand for use of those resources; and

(b) It is in the best interests of the citizens of the city, both as the owner of a natural gas utility and as a part of the greater Minnesota community to encourage such conservation; and

(c) There is a public need for a program directed toward encouraging developers and contractors developing and constructing affordable housing in the city to provide increased energy conservation improvements to the construction of new affordable housing units to reduce energy consumption of such units and to assist persons of low and moderate income in meeting their energy needs in the most affordable way possible; and

(d) It is in the best interests of the citizens of the city and of the state of Minnesota and therefore a public purpose for the city to establish and fund a program to encourage the conservation of energy resources, especially natural gas resources, in the city.

RESOLVED, that the city of Duluth does hereby establish the "Affordable Housing Energy Conservation Program" as described in the program guidelines, a copy of which is on file in the office of the city clerk as Public Document No. 08-0512-19.

RESOLVED FURTHER, that said program guidelines are hereby approved.

RESOLVED FURTHER, that the director of public works and utilities or his or her designee is hereby authorized to extend grants to commercial and industrial customers of the city's natural gas utility under the terms and conditions set forth in said program guidelines, up to the amount provided therefore in the city's budget, as amended.

Resolution 08-0308 was unanimously adopted.

Approved May 12, 2008

DON NESS, Mayor

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Resolution 08-0312, committing to a plan to protect public health and preserve Lake Superior by eliminating sanitary sewer overflows, was introduced for discussion.

Councilor Fosle moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Ted Chura expressed concerns about: subsidizing others who should be paying their fair share because some land values are far less than they should be and thus have improper assessments; the unfairness to those living on a fixed social security amount and property owners should be required to pay at least 50 percent or put in on their property as an assessment.

Councilors Stauber, Fedora, Gilbert and Krause opposed the resolution because: the council just received this last Thursday; the public has not had time to comment; the city should look to reducing expenses first, rather than turning to the taxpayers; this is a clean water surcharge; the real estate and mortgage industry need to know about this; there needs to be more information on this; this is comparable to the sump pump ordinance on new constructions; Duluth has the highest utility rates in the Midwest and those living on fixed incomes cannot afford another charge.

Jim Benning, public works and utilities department director, stated that, while it is not imperative to have this resolution passed, it would assist in the negotiations on this issue.

Resolution 08-0312 failed upon the following vote (Public Document No. 08-0512-20):

Yeas: Councilors Anderson, Fosle, Gardner and President Reinert -- 4

Nays: Councilors Fedora, Gilbert, Krause and Stauber -- 4

Absent: Councilor Cuneo -- 1

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BE IT RESOLVED, that the proper city officials are authorized to execute and implement an agreement substantially the same as that on file with the clerk as Public Document No. 08-0512-21, between the city and the Western Lake Superior Sanitary District dividing responsibility of the parties under a USEPA consent decree so that each party is responsible for its part of the sewer system.

Resolution 08-0314 was unanimously adopted.

Approved May 12, 2008

DON NESS, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCE RECONSIDERED

INTRODUCED BY COUNCILOR STAUBER

08-008 (9905) - AN ORDINANCE AUTHORIZING THE SALE OF A HALF ACRE OF UNDEVELOPED PARK IN LAKE VIEW MANOR DIVISION TO WHITE PINE DEVELOPMENT FOR \$7,900.

Stauber moved for reconsideration of the ordinance because when it was initially passed, there was only seven councilors present and the selling of park property requires eight affirmative votes, which motion was seconded and unanimously carried.

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

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ORDINANCE TABLED

INTRODUCED BY COUNCILOR ANDERSON

08-029 (9906) - AN ORDINANCE AMENDING SECTION 2-18.2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO PRE-CHARGE DEFERRAL.

President Reinert moved to remove the ordinance from the table, which motion was seconded and unanimously carried

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

- - -

The following entitled ordinances were read for the first time:

BY COUNCILORS STAUBER, GARDNER AND ANDERSON

08-035 - AN ORDINANCE AUTHORIZING LICENSING OF UNLEASHED DOGS TO USE DESIGNATED AREAS AND TRAILS AMENDING SECTION 6-36 OF THE DULUTH CITY CODE, 1959, AS AMENDED AND ADDING NEW SECTIONS 6-36.1, 6-36.2 AND 6-36.3 TO ARTICLE IV OF CHAPTER 6 THEREOF.

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INTRODUCED BY COUNCILOR FOSLE

08-036 - AN ORDINANCE AMENDING SECTIONS 43-16, 43-25, 43-31, 43-33, 43-33.1, AND 43-36 AND ADDING NEW SECTIONS 43-11.1 AND 43-33.4 TO THE DULUTH CITY CODE, 1959, AS AMENDED, ALL PERTAINING TO PROTECTION OF WATER QUALITY AND THE ENVIRONMENT THROUGH IMPROVEMENTS IN THE WASTEWATER COLLECTION SYSTEM.

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INTRODUCED BY COUNCILOR ANDERSON

08-034 - AN ORDINANCE AMENDING SECTION 6-77 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO HUNTING DEER.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR GILBERT

08-030 (9907) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF UP TO \$41,500,000 GENERAL OBLIGATION DECC IMPROVEMENT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE

CITY COUNCIL, PLEDGING CERTAIN FOOD AND BEVERAGE SALES TAX RECEIPTS AND OTHER REVENUES.

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

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INTRODUCED BY COUNCILOR GILBERT

08-031 (9908) - AN ORDINANCE IMPOSING AN ADDITIONAL THREE QUARTERS OF ONE PERCENT FOOD AND BEVERAGE TAX, AMENDING SECTIONS 42A-2, 42A-44 AND 42A-50 OF THE DULUTH CITY CODE.

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

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BY COUNCILORS GARDNER AND CUNEO

08-033 (9909) - AN ORDINANCE AMENDING SECTION 29A-32 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO RENTAL LICENSING.

Councilor Gardner moved to suspend the rules to hear speakers on the ordinance, which motion was seconded and unanimously carried.

Deborah Muller, Erin Pike, Blake Shippee, Kim Parmeter and Frank Rohde spoke in support of the ordinance for reasons of the 300 foot rule being stricken because: it is ineffective for the intended purpose of controlling the environment of the neighborhood; it discriminates against students; adversely affects homeowners that need to rent their homes for various reasons; there are a lot of individuals that have not applied for the rental license; it is not fair to those who are affected by this; those who have not been able to sell their houses, have to move in order to rent their houses to pay the mortgage; there will be more empty houses and/or mortgage foreclosures; those who have the rental units will raise their prices because of supply and demand; it failed to address the core issues that it attempted to solve and that student behavior is what the problem is.

Connie Sundquist spoke in opposition to the ordinance for the reasons of: quiet neighborhoods have been changed with college housing and home values decrease when there is college housing.

Myrna Matheson requested that this be tabled until the committee that has been meeting to address these issues can present their results. She added that at the committee meetings, there have been good ideas presented regarding neighborhood recovery.

Sara Ward requested that there be an amendment to eliminate the language in reference to the owner occupied rentals, because some students are on the titles and also to change the sunset the date on the 300 foot rule to July. She noted that these changes are being considered by the committee.

Councilor Gardner moved to amend Section 2 of the ordinance, changing the date "June 20, 2008," to "July 20, 2008," which motion was seconded, discussed and unanimously carried.

Councilor Fedora moved to amend the ordinance, by renumbering Section 3 to Section 4 and adding a new Section 3 to read as follows:

"Section 3. An applicant for a rental license may apply for a cancellation of the license and obtain a full refund of the license fee upon application to the city and upon the following conditions:

(a) The license application was received by the city between August 14, 2007, and September 23, 2007; and

- (b) A temporary rental license was issued; and
- (c) The rental unit has not been inspected by the city; and
- (d) The rental unit is not currently being occupied, in whole or part pursuant to

a rental agreement,”

which motion was seconded and discussed.

Councilors Gardner and Gilbert stated that they opposed the amendment because there are no funds available for this refund.

Councilor Fedora’s amendment failed upon the following vote:

Yeas: Councilors Anderson, Fedora, Fosle and President Reinert -- 4

Nays: Councilors Gardner, Gilbert, Krause and Stauber -- 4

Absent: Councilor Cuneo -- 1

Councilors Krause, Gilbert and Stauber opposed the ordinance because: there are other areas of the city where there is a need for the 300 foot restriction; it is a very complex process to change nuisance/blighted resident situations because of the involvement of police, the justice system and building safety; this ordinance corrects some reasonable areas, but the repealing of the 300 foot restriction does not make sense and destroys neighborhoods; planning and enforcement components are needed to deal with situations created by certain tenants and students; with this repeal of the 300 foot restriction, there are not the police and inspector’s resources to manage behavioral situations; the increase of rental properties reduces the availability of single family housing and the council should be waiting on the report from the committee studying this, which will be done in two days, before the council repeals the 300 foot restriction.

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

Yeas: Councilors Anderson, Fedora, Fosle, Gardner and President Reinert -- 5

Nays: Councilors Gilbert, Krause and Stauber -- 3

Absent: Councilor Cuneo -- 1

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The meeting was adjourned at 8:52 p.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9904

AN ORDINANCE AMENDING ORDINANCE 9586 AMENDING TRADITIONAL NEIGHBORHOOD DISTRICT NO. 2, PROPERTY BOUNDED ON THE NORTH BY 13TH STREET, ON THE EAST BY CENTRAL ENTRANCE, ON THE SOUTH BY 11TH STREET AND ON THE WEST BY SECOND AVENUE WEST.

The city of Duluth does ordain:

Section 1. Development within the boundaries of Traditional Neighborhood District No. 2 shall be governed by and regulated in accordance with Public Document No. 03-0127-43 entitled “Harbor View /Central Hillside Revitalization, Traditional Neighborhood Development Code, Dated November 15, 2002, Amended December 20, 2002, Amended March 24, 2004, Amended September 28, 2005, Amended October 14, 2005, Amended January 25, 2006, and Amended March 10, 2008.”

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Section 2. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: June 22, 2008)

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

Yeas: Councilors Anderson, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Absent: Councilor Cuneo -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 12, 2008
Approved May 12, 2008
DON NESS, Mayor

ORDINANCE NO. 9905

AN ORDINANCE AUTHORIZING THE SALE OF A HALF ACRE OF UNDEVELOPED PARK IN LAKE VIEW MANOR DIVISION TO WHITE PINE DEVELOPMENT FOR \$7,900.

The city of Duluth does ordain:

Section 1. That the Duluth city planning commission recommended at its January 8, 2008, regular meeting the sale of the park described in Section 3 below by an affirmative vote by the ten commissioners present out of 13 commissioners seated on the commission, in excess of the three-fourths vote required by state statute.

Section 2. That the city hereby designates the property described in Section 3 below as being surplus to the city's future needs and hereby declares its intention to alienate its interest in same.

Section 3. That 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 White Pine Development for \$7,900, the proceeds to be deposited in General Fund 0100-700-1420-4640-02 to be used for the improvement or maintenance of park lands and to execute all documents necessary with regard to said conveyance: Lots 8 through 13 inclusive, all in Block 3, Lake View Manor Division.

Section 4. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: June 22, 2008)

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

Yeas: Councilors Anderson, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Absent: Councilor Cuneo -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 12, 2008
Approved May 12, 2008
DON NESS, Mayor

ORDINANCE NO. 9906

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

AN ORDINANCE AMENDING SECTION 2-18.2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO PRE-CHARGE DEFERRAL.

The city of Duluth does ordain:

Section 1. That Section 2-18.2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 2-18.2. Deferral authorized; fees and administrative charges.

Subject to management and supervision, and applicable laws and standards, city officials and agents who enforce laws and regulations are authorized to utilize a procedure of pre-charge deferral and administrative fees and charges for any violation of the City Code or any other regulation or law they have jurisdiction to enforce, but only in compliance with state and federal civil rights laws and the city's anti-discrimination policy, in instances where the circumstances indicate that justice and compliance can better be attained by deferral than by issuing a criminal charge. The city is not required to allow an offender to participate in a deferral program. The administration is authorized to set standards and procedures for the use of pre-charge deferral and administrative fees and charges and an appeal process. In the case of parking violations, the administrative penalty charge can be assessed and, in addition, the vehicle can be detained or removed. The city is authorized to charge each participant a reasonable administrative fee for participation, the amount of the fee to be set by resolution of the city council. In the case of violations involving buildings or improvements to property, any unpaid fee or charge may be assessed against the property affected and collected as set out in Section 70 of the Charter. The city's human rights officer shall monitor the program for compliance with civil rights standards.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 22, 2008)

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

Yeas: Councilors Anderson, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Absent: Councilor Cuneo -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 12, 2008
Approved May 12, 2008
DON NESS, Mayor

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ORDINANCE NO. 9907

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF UP TO \$41,500,000 GENERAL OBLIGATION DECC IMPROVEMENT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL, PLEDGING CERTAIN FOOD AND BEVERAGE SALES TAX RECEIPTS AND OTHER REVENUES.

The city of Duluth does ordain:

Section 1. Bond purpose and authorization.

1.01 The city council has determined it to be necessary and expedient and in the public interest that the city finance a portion of the costs to design, construct, furnish and equip renovations to the Duluth Entertainment Convention Center, including a new arena (the project).

1.02 Under the provisions of Minnesota Laws 1974, Chapter 130, the city council may by ordinance provide for the issuance of general obligation bonds to provide the funds necessary to match state, private or federal grant funds for projects within the city's boundaries, which bonds are to be supported by the full faith and credit of the city and are to be issued subject to the provisions of Minnesota Statutes, Section 475, except that they may exceed the limitations in Minnesota Statutes, Section 475.53, by an amount not to exceed \$2,000,000, and they may not be issued if the city's contribution to the project, including the proceeds of the bonds, exceeds 60 percent of the total project cost where such contribution is used to match state or federal grants, or 70 percent where it is used to match government and private grants, or 80 percent where it is used to match private grants alone. The project is of the nature contemplated by said law. The Duluth entertainment and convention center authority (the authority) has been awarded a grant from the state of Minnesota of funds in aid of the project. The state grant of \$38,000,000 requires a local match to complete the construction and equipping of the project, and the proceeds of bonds to be issued by the city in an amount not to exceed \$41,500,000, together with the state grant, will be sufficient to pay the total project costs. The amount of the city's contribution, from the proceeds of the bonds or otherwise, will not exceed the limitations set forth in said law.

1.03 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation DECC improvement bonds of the city of Duluth in an amount not to exceed \$41,500,000, 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.

Section 2. Terms of bonds.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the provisions of Minnesota Statutes, Chapter 475 and of Laws 1974, Chapter 130, and of other applicable laws.

Section 3. Revenues and accounts.

3.01 The city hereby creates the 2008 DECC improvement capital project fund to which there shall be credited all or a portion of the proceeds of the bonds, as provided by council resolution, together with any additional funds which may be available and are appropriated for the project or which may be advanced to such fund on condition that such amounts be reimbursed from bond proceeds.

3.02 The city council may, by resolution or resolutions, establish such further accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. Pledge of revenues; sales tax pledge.

4.01 There shall be and is hereby pledged (i) the proceeds of the additional three-quarters of one percent sales tax revenues, as authorized by Laws of Minnesota 1980, Chapter 511, Section 1, Subdivision 2, and Section 3, as amended, including Laws of Minnesota 2008, Chapter

154, Article 5, Section 2, authorized for the project (the 0.75% food and beverage tax); and (ii) certain revenues of the authority pledged to the city for payment of the bonds, collectively, in amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on such bonds as such principal and interest respectively become due. Until the bonds to be issued hereunder are fully paid or duly called for redemption, the city will also maintain a separate debt service account within the debt service fund created by Section 54 of the City Charter, to be used solely for the payment of the interest and the principal, respectively, as such principal and interest become due and payable, on the bonds issued hereunder. If the balance is ever insufficient to pay all principal and interest then due on the bonds issued hereunder, the Treasurer shall nevertheless provide sufficient money from any other funds of the city which are available for that purpose, and such other funds shall be reimbursed from such debt service account when the balance therein is sufficient. Under the plan of finance for the project, the city and the authority will enter into an agreement where the authority will provide annually from its revenues, including tourism tax revenues (the revenues), an amount which together with the 0.75% food and beverage tax, will be sufficient to pay the principal and interest on the bonds. Accounts for the revenues and the 0.75% food and beverage tax receipts shall be established by council resolution, and such funds shall be paid when collected into such accounts. It is estimated that the revenues and the 0.75% food and beverage tax receipts herein pledged and appropriated to said debt service fund will be received at the times and in amounts not less than five percent in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the city's liability on the bonds is not limited to the revenues and the 0.75% food and beverage tax receipts so pledged, and the city council covenants and agrees that it will levy upon all taxable property within the city, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the bonds, without limitation as to rate or amount. After this ordinance has been published and becomes effective, the city council shall by resolution fix the precise aggregate amount of the revenues and the 0.75% food and beverage tax receipts pledged for payment of principal and interest on such bonds for each of the respective years required to comply with the provisions of this ordinance.

Section 5. Certificate of proceedings.

5.01 The city clerk is directed to file with the county auditor of St. Louis County a certified copy of this ordinance, and such other information as the county may require, and to obtain from the county auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

5.02 The officers of the city and the county auditor are authorized and directed to prepare and furnish to the purchasers of the bonds, and to bond counsel, certified copies of all proceedings and records of the city relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds as such facts appear from the official books and records in the officers' custody or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the city as to the correctness of the facts recited therein and the action stated therein to have been taken.

Section 6. Effective date.

6.01 That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 15, 2008)

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

Yeas: Councilors Anderson, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Absent: Councilor Cuneo -- 1

Passed May 12, 2008

Approved May 12, 2008

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9908

AN ORDINANCE IMPOSING AN ADDITIONAL THREE QUARTERS OF ONE PERCENT FOOD AND BEVERAGE TAX, AMENDING SECTIONS 42A-2, 42A-44 AND 42A-50 OF THE DULUTH CITY CODE.

The city of Duluth does ordain:

Section 1. That Section 42A-2 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 42A-2. Sales tax--imposed; amount of tax; exemptions.

(a) To provide funds for the purpose of general municipal operations, maintenance and capital improvements of the city, there shall be and is hereby imposed an excise tax of one percent on gross receipts of any person from sales at retail, including the sales of motor vehicles, as defined in this Chapter, made in the city. In no case shall the tax imposed hereby upon the seller exceed the amount of the tax which he is authorized and required by law to collect from the purchaser. Except in the case of motor vehicles and as otherwise provided in this Section, all goods and services that are exempt from taxation under the provisions of Minnesota Statutes Chapter 297A are exempt from taxation under this Chapter;

(b) In addition to the tax set forth in Subsection (a) of this Section, and notwithstanding any provision of law to the contrary, an additional tax of two and one-quarter percent is hereby imposed on gross receipts from the furnishing, preparing or serving for a consideration of food, meals or drinks, not including those prepared and served at hospitals, sanatoriums, nursing homes or senior citizens' homes, meals or drinks purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to the handicapped and their spouses by governmental agencies, nonprofit organizations, agencies or churches or pursuant to any program funded in whole or in part through 42 USCA Sections 3001 through 3045, wherever delivered, prepared or served, meals and lunches served at public and private schools, universities or colleges, or the occasional meal thereof by a charitable or church organization. The tax imposed in this Subsection is subject to the exemptions set forth in Subsection (c) of this Section and to the limitations of Laws of Minnesota 1980, Chapter 511, as amended;

(c) The tax imposed by Subsection (b) above shall not be imposed:

(1) Upon business establishments doing less than \$100,000 in sales taxable under Subsection (b) in any current tax period from October 1 to September 30 of the next year;

(2) Upon business establishments which did less than \$100,000 in sales taxable under Subsection (b) in any current tax period from October 1 to September 30 immediately preceding the period from October 1 to September 30 in which the tax would be collected;

(d) New establishments. The exemption in Subsection (c)(2) above shall not apply to newly opened establishments or establishments which have not been in operation for one year on September 30. In the case of the above-mentioned establishments, the administrator shall make an estimate of the anticipated yearly sales volume of the establishment based on the size, type of operation, sales volume of similar establishments in the area and any other available relevant data. If the estimated yearly sales volume exceeds \$100,000, the establishment shall collect and remit the tax authorized in Subsection (b). If the establishment has not reached \$100,000 in sales taxable under Subsection (b) by the next September 30, taxes remitted by the establishment pursuant to Subsection (b) shall be refunded to the establishment in the manner provided in Section 42A-35 of this Chapter;

(e) Notwithstanding the provisions of paragraph (a) of this Section, for sales at retail of manufactured homes used for residential purposes the excise tax is imposed upon 65 percent of the sales price of the home.

Section 2. That Section 42A-44 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 42A-44. Allocation and distribution of revenues produced by tax.

(a) All proceeds realized from the taxes imposed by this Chapter, except those amounts described in subsections (b) and (c), shall be paid into the general fund and distributed as provided in this Subsection. After the payment of all expenses of collection and enforcement of the taxes authorized under this Chapter, and after making refunds provided for in this Chapter, the remainder of the taxes levied and collected under this Chapter shall be allocated and distributed in accordance with the annual budget submitted by the mayor and approved by the city council;

(b) Taxes realized as the result of "sale and purchase" as defined in paragraph (e) of the definition thereof shall be paid into a special account in the general fund, the proceeds of which will be devoted to one or more of the following recreational, cultural or civic projects:

- Spirit Mountain recreation area;
- Arena-auditorium complex;
- Duluth Convention and Visitors Bureau;
- St. Louis County Heritage and Arts Center;
- An account for civic or tourist projects.

The distribution of these proceeds shall be determined by the budget process described in subsection (a);

(c) Revenues received from one percent of the tax authorized by Section 42A-2(b) in this Chapter shall be used to pay for activities conducted by the city or by other organizations which promote tourism in the city of Duluth, and to subsidize

the Duluth arena-auditorium and the Spirit Mountain recreation area. Distribution of said revenues shall be approved by the city council at least once annually, and shall be made in accordance with the provisions of this subsection. Revenue received from one and one-quarter percent of the tax authorized by said Section 42A-2(b) shall be used to pay the debt service on bonds as follows:

(1) One-half of one percent of such tax for:

(A) Bonds originally issued in the principal amount of \$8,000,000 for capital improvements to the Duluth Entertainment Convention Center; and

(B) Bonds originally issued in the principal amount of \$4,970,000 to finance capital improvements to the Great Lakes Aquarium; and

(2) Three-quarters of one percent of such tax for bonds to be issued in the principal amount of \$40,285,000 plus issuance and discount costs for capital improvements at the Duluth Entertainment Convention Center, including a new arena.

Section 3. That Section 42A-50 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 42A-50. Allocation of revenues.

(a) The revenues received from one percent of the tax imposed by this Article shall be used to pay for activities conducted by the city or by other organizations which promote tourism in the city of Duluth and to subsidize the Duluth Entertainment Convention Center and the Spirit Mountain recreation area, and the revenues received from another one percent of such tax shall be used for tourist related public improvements. Distribution of said revenues shall be approved by the city council at least once annually, and shall be in accordance with this Section;

(b) The revenues received from 1/2 percent of the tax imposed by this Article shall be used to pay the debt service on:

(1) Bonds originally issued in the principal amount of \$8,000,000 for capital improvements to the Duluth Entertainment Convention Center; and

(2) Bonds originally issued in the principal amount of \$4,970,000 to finance capital improvements to the Great Lakes Aquarium.

Section 4. That this ordinance shall take effect and be in force from and after its passage and publication or on July 1, 2008, whichever is later.

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

Yeas: Councilors Anderson, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Absent: Councilor Cuneo -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 12, 2008
Approved May 12, 2008
DON NESS, Mayor

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ORDINANCE NO. 9909

BY COUNCILORS GARDNER AND CUNEO:

AN ORDINANCE AMENDING SECTION 29A-32 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO RENTAL LICENSING.

The city of Duluth does ordain:

Section 1. That Section 29A-32 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 29A-32. Licenses--terms and conditions.

(a) Each license or copy thereof or placard at least 3"x5" with the same information noted below in this subparagraph shall be displayed in a conspicuous place so that it can be seen and read by a person outside the building and within the common way or near the main entrance of the dwelling and shall state the name, e-mail address and telephone number of the owner or managing agency, if applicable, which is managing the dwelling. Any permitted license rental will ensure there is a local point of contact (within a 25 mile radius) available on such license. No license shall be transferred to another dwelling or rental unit;

(b) If there is a change in either ownership or management of a dwelling, the person or agency managing such dwelling prior to such change in ownership or management shall give written notice of the name and address of the new owner and/or manager to the building official;

(c) A new license shall be issued to the dwelling for the remainder of the license period with the name of the new manager and/or owner upon payment of the required fee and submission of all required application forms;

(d) Any licensed one family or two family dwellings in a district zoned R-1-a, R-1-b or R-1-c shall provide a minimum of two off street parking spaces. In addition, for each additional bedroom in excess of three, there shall be provided one additional off street parking space. Any off street parking spaces shall comply with the standards for off street parking set forth in Section 50-26. The number of required off street parking spaces shall be determined by the building official at the time of licensure;

(e) Except as otherwise provided in this Section, any licensed one family or two family dwelling, lawfully existing on September 1, 2007, may continue to be so used even though such use does not conform to the provisions of this Section. If the number of bedrooms is increased in a licensed one family or two family dwelling located in a district zoned R-1-a, R-1-b or R-1-c after September 1, 2007, the off street parking requirements of this Section shall apply to the entire licensed property. If the license for such nonconforming use is revoked or lapses for any period of time, any subsequent licensed use must comply with all provision of this Chapter;

(f) Except as otherwise provided, in areas zoned R-1-a, R-1-b or R-1-c, no license shall be issued for any dwelling, structure, rooming house, rental unit or housekeeping unit, within a distance of 300 feet from any other licensed dwelling. The distance restriction shall not apply to the following:

(1) A two family dwelling as defined by Chapter 50-1.21 in which an owner thereof occupies one of the dwelling units; except that no rental occupancy shall be allowed in such owner occupied dwelling unit;

(2) An existing two family dwelling as defined at Section 50-1.21 and any multi family dwelling as defined in Section 50-1.23 but containing less than five dwelling units; and

(3) An owner occupied single family dwelling, provided that the number of tenants does not exceed the number of bedrooms in the building;

(g) In areas zoned R-2 or R-3, no license shall be issued for any single family dwelling within a distance of 300 feet from any other licensed single family dwelling. The restriction shall not apply to the following:

(1) An owner occupied single family dwelling, provided that the number of tenants does not exceed the number of bedrooms in the building; and

(2) A two family dwelling as defined in Chapter 50-1.21;

(h) Any licensed dwelling, structure, rooming house, rental unit or housekeeping unit lawfully existing on September 23, 2007, may continue, even though such use does not conform to the provisions of this Chapter. If the license for such nonconforming use is revoked or lapses for any period of time, any subsequent licensed use must comply with all provisions of this Chapter;

(i) In all residentially zoned districts restrictions shall not apply to short term licenses. Except as otherwise provided, the building official may issue short term licenses for a period not to exceed 12 consecutive months. A short term license may not be issued more frequently than once in any three year period. Such short term licenses shall be applied for in the same manner as other rental licenses and all rental requirements for such dwelling unit shall otherwise meet all rental licensing requirements. A short term license may be issued for any single family or two family dwelling under the following circumstances:

(1) The owner is the current occupant of the dwelling unit, and

(2) For professional, educational or military service reasons the owner intends to reside in another community located at least 50 miles from the dwelling unit, and

(3) The owner provides sufficient evidence of such intention to temporarily relocate to the building official. Such evidence may include, but is not limited to written offers of employment, employment transfer directives, letter of acceptance from an educational institution, or military orders.

A short term license may be extended for an additional six months period provided that an application for extension is received prior to the expiration of the short term license and adequate evidence justifying such an extension is submitted with the application. The building official shall act upon such application for extension within 15 business days of delivery of the application.

The action of the building official is subject to appeal as provided in Section 29A-34;

(j) The distance restrictions provided in clauses (f) and (g) of this Section shall not apply to a single family or two family dwellings that is subject to a purchase agreement for the sale of the dwelling when all of the following conditions are met:

(1) The dwelling is occupied by the seller; and

(2) The buyer and seller agree that the buyer may occupy the dwelling prior to completion of the sale; and

(3) The buyer, pursuant to a written early occupancy agreement between the buyer and seller, occupies the dwelling; and

(4) The sales transaction is completed or cancelled in writing within 120 days from the date that the date of the written early occupancy agreement.

Section 2. That sections 29A-32(f), (g), (h) and (j) of the Duluth City Code, 1959, as amended, shall expire and be of no force and effect after midnight on July 20, 2008.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 22, 2008)

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

Yeas: Councilors Anderson, Fedora, Fosle, Gardner and President Reinert -- 5

Nays: Councilors Gilbert, Krause and Stauber -- 3

Absent: Councilor Cuneo -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 12, 2008
Approved May 12, 2008
DON NESS, Mayor

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OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, May 22, 2008, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

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MOTIONS AND RESOLUTIONS

Resolution 08-0342, retaining Johnson, Killen & Seiler as special counsel to assist the city attorney in retiree health care litigation, not to exceed \$50,000; Resolution 08-0343, retaining Orman, Nord, Spott & Hurd as special counsel to assist the city attorney in retiree health care litigation, not to exceed \$50,000; and Resolution 08-0344, retaining Kennedy & Graven, Chartered as special counsel to assist the city attorney in retiree health care litigation, not to exceed \$50,000, were introduced by President Reinert for discussion.

Councilors directed several questions to City Attorney Bryan Brown, and he replied that a lawsuit has been filed by three city retirees who claim that they have been denied benefits due them under their retiree health insurance, and they claim that the city has changed the benefit levels of retired employees which the city has no authority to do. Mr. Brown continued that discussions were held with Don Bye, the retirees' attorney, several weeks ago and that the city had been expecting the lawsuit. He went to explain that all the city attorneys, except himself, are included in the retirement benefit system of the city and in a union, so they all have entitlement in the current plan and an interest in what happens to it. Mr. Brown stated that he is also included in the retirement benefit plan and will be retiring soon, so all the city attorneys have an interest in the plan and whatever position that their office would take could be criticized by people on one side of the issue or the other as being influenced by their self interest. He explained that when there are conflict situations, the attorney's office has hired outside counsel in the past, but since a lawsuit has been commenced, the direction that the city attorney has to take in a lawsuit under the City Charter comes from the city council and that is why the council is meeting today. Mr. Brown reviewed that the city attorney's office solicited proposals from various law firms and received three responses that are now being submitted to the council for review and decision on how to proceed with the selection of the law firm. He continued saying that the city has 20 days to answer the complaint.

Responding to President Reinert's request, Pat Spott, representing Orman, Nord, Spott & Hurd; Joe Roby, representing Johnson, Killen & Seiler; and John LeFevre, representing Kennedy & Graven, Chartered, give a short introduction of their firm and what type of lawsuits they have represented in the past.

After lengthy discussion, no action was taken on the resolutions and a committee meeting was set for May 27, 2008, to interview the law firms with the intent to vote on the resolutions at the council meeting that night.

The council directed Mr. Brown to inquire if the county attorney's office would be willing to take this lawsuit on and represent the city.

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The meeting was adjourned at 5:50 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, May 27, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Absent: Councilor Krause -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0527-01 Steven L. Hampton, et al. (four signatures), petition to vacate the easterly portion of the utility easement in the vacated 27th Avenue East above Second Street abutting Lot 16, Block 3, Harrison's Division. -- Assessor

08-0527-12 Susan Darley-Hill communication regarding proposed ordinance pertaining to keeping chickens in city (08-020-O). -- Received

08-0527-13 The following communications regarding proposed ordinance relating to rental licensing (08-041-O): (a) Carol Northcott; (b) Trent Wickman. -- Received

08-0527-02 The following communications regarding proposed ordinance pertaining to the wastewater collection system (08-036-O): (a) Mark Lutterman; (b) Jim Snow. -- Received

08-0527-03 The following communications regarding proposed ordinance authorizing licensing of unleashed dogs to use designated areas and trails (08-035-O): (a) Joan Deutsch; (b) Sue Lane; (c) Jay Monson; (d) A. Paine Williams; (e) Yanlin Yu. -- Received

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REPORTS FROM OTHER OFFICERS

08-0527-04 Assessor letters of sufficiency of petitions to:

(a) Reclassify from R-1 to C-5 Lots 4 and 5, Block 31, Duluth Heights, Sixth Division;

(b) Vacate alleyways at corner of Arrowhead Road and Kenwood Avenue, Blocks 1, 2 and 11 of Meyers and Whipples Addition. -- Received

08-0527-05 Parks and recreation department director rental agreement with Jason Brandt and Don Kuchenbecker for residential dwelling unit located at Chester Bowl Chalet building located at 1800 East Skyline Parkway, pursuant to Section 2-35, Duluth City Code. -- Mayor for execution

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REPORTS OF BOARDS AND COMMISSIONS

08-0527-25 Alcohol, gambling and tobacco commission minutes of April 2, 2008, meeting. -- Received

08-0527-06 American Indian commission minutes of: (a) February 25; (b) March 17, 2008, meetings. -- Received

08-0527-07 Commission on disabilities minutes of April 2, 2008, meeting. -- Received

08-0527-08 Duluth human rights commission minutes of April 9, 2008, meeting. -- Received

08-0527-09 Parks and recreation commission minutes of April 16, 2008, meeting. -- Received

08-0527-10 Planning commission minutes of: (a) April 8; (b) April 23, 2008, meetings. -- Received

08-0527-11 Seaway Port authority of Duluth minutes of: (a) December 20, 2007; (b) February 14; (c) March 19, 2008, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Jerry Schlafer stated that if the people in the community were as motivated and had the same amount of passion as the runners in Grandma's Marathon, there would be visible and long lasting permanent changes to the city using the resources and talents of the citizens.

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RESOLUTION TABLED

President Reinert moved to remove Resolution 08-0304, approving budget and cost sharing formula of Minneapolis-Duluth/Superior passenger rail alliance, accepting donations and authorizing payment of city's cost share of \$45,000, 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.

Steve Horn; Lynne Bell; Terry Mattson, Visit Duluth; John Angaro, St. Louis County; and Ken Buehler, St. Louis County Heritage and Arts Center (Depot); urged support of this resolution as it would be a big boost for local tourism; create joint development opportunities with job and tax growth; enhance the economic landscape of Duluth; it is an efficient and convenient way to travel; there will be car rental and bus services to offer people taking the train; the cost of gas is at an all time high; the cost of the trip is not anymore expensive than other means of transportation; other cities in Minnesota are now starting to look for money to study building trains to Minneapolis; it will reduce the carbon footprint; it is an alternative method of travel for people who may not normally travel to Duluth and the money is coming from the hotel/motel tax funds and the Duluth Transit Authority, Visit Duluth, the Duluth Entertainment Convention Center and the Fond du Lac Band of Ojibway, which reduces the city's share down to \$15,000.

Councilor Stauber reviewed that he does not support this project and expressed his concern that this train will take away business from the airport, which may be losing state funding this year, and also stated that the airport belongs to the city and it is not in the best interest of Duluth to create competition for the airport.

Councilor Fedora commended the effort to reduce the city's funding portion and stated the numbers of the feasibility study are impressive, but the funding obligation for the city in the following years is a concern and the city needs to prioritize its expenses.

Councilor Fosle questioned if this passenger rail is such a good idea and, if it will bring in new developments, why has a private developer not already pursued this project.

Mayor Ness stated this project should not be viewed as pitting the airport against the train but as competition against automobile traffic and that developers will be willing to put money into Duluth once the train comes to fruition. He continued by saying that the administration sought other partners in the community for this project and now only \$15,000 will be needed from the hotel/motel tax money.

Resolution 08-0304 was adopted as follows:

RESOLVED, that the city council of the city of Duluth hereby approves the 2008 budget and cost sharing formula for the Minneapolis-Duluth/Superior passenger rail alliance, a copy of which

is on file in the office of the city clerk as Public Document No. 08-0527-14, as provided for in paragraph V E. of City Agreement No. 20580.

FURTHER RESOLVED, that the proper city officials are hereby authorized to accept contributions from the following entities in the following amounts to defray a portion of the city's cost share as provided for in the aforesaid budget, said sums to be deposited in the Tourism Tax Fund 258:

Duluth Transit Authority	\$15,000
Entertainment and Convention Center Authority	5,000
Visit Duluth	5,000
Fond du Lac Band of Lake Superior Chippewa	5,000

FURTHER RESOLVED, that the proper city officials are hereby authorized to pay the city's share of said alliance's 2008 budget in the amount of \$45,000 in conformance with Section VI A. of the aforesaid Agreement No. 20580, said sum to be payable from the Tourism Tax Fund 258, \$15,000 allocated from undesignated fund balance and \$30,000 allocated from donations.

Resolution 08-0304 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

Nays: Councilors Fedora, Fosle and Stauber -- 3

Absent: Councilor Krause -- 1

Approved May 27, 2008

DON NESS, 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 Reinert moved passage of the consent agenda, which motion was seconded and unanimously carried.

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:

Duluth Police Softball Team, Wheeler Field, for July 26 and 27, 2008, with Matt McShane, manager.

Resolution 08-0318 was unanimously adopted.

Approved May 27, 2008

DON NESS, Mayor

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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:

Chaser's of Duluth, Inc. (Bedrock Bar), 2023 West Superior Street, for June 14, 2008, with the music and serving ceasing at 9:00 p.m.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Blue Sky Duluth, Inc. (Oly's Duluth Pub), 323 West First Street, for July 11, 2008, with the music and serving ceasing at midnight.

Grandma's, Inc. (Grandma's Saloon & Grill), 522 Lake Avenue South, for June 21, 2008, with the serving and music ceasing at 1:00 a.m.

Resolution 08-0319 was unanimously adopted.

Approved May 27, 2008

DON NESS, Mayor

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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
Lester Park Hockey	The Blue Crab, 1909 West Superior Street
Welch Center	Dubh Linn Pub, 109 West Superior Street
Climb Theatre	All American Club, 1931 West Michigan Street

Resolution 08-0321 was unanimously adopted.

Approved May 27, 2008

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Northern Lights 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 08-0322 was unanimously adopted.

Approved May 27, 2008

DON NESS, Mayor

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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. 08-0527-15, with Fresh Air Fitness, LLP, for the leasing of the Endion Station building for the operation of a personal physical fitness training business, rents payable therefore being paid to the city's general fund under Revenue Source 100-015-1515-4622.

Resolution 08-0331 was unanimously adopted.

Approved May 27, 2008

DON NESS, Mayor

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RESOLVED, that the proposed amendments to the specifications for the civil service classification of manager, human resources, healthcare and safety, which were approved by the civil service board on May 6, 2008, and which are filed with the city clerk as Public Document No. 08-0527-16, are approved; that said classification shall be subject to the city's collective bargaining unit with its supervisory unit (CDSA) employees; and that pay range for said

classification shall be ranges 1115 through 1140. The proper city officials are authorized to execute and implement an agreement with the CDSA to provide for employing one or more unit members consistent with this resolution.

Resolution 08-0313 was unanimously adopted.

Approved May 27, 2008

DON NESS, Mayor

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RESOLVED, that Resolution 08-0307, confirming the appointment by Mayor Ness of Patricia S. Tyler (at large representative) to the community development committee for a term expiring on March 1, 2011, replacing Joseph Matthes, is hereby amended to read as follows:

RESOLVED, that the appointment by Mayor Ness to the community development committee of Patricia S. Tyler (at large representative), for a term expiring on March 1, 2009, replacing Jeffery D. Anderson, is confirmed.

RESOLVED FURTHER, that the reappointment by Mayor Ness to the community development committee of Joseph Matthes (at large representative), for a term expiring on March 1, 2011, is confirmed.

Resolution 08-0340 was unanimously adopted.

Approved May 27, 2008

DON NESS, Mayor

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RESOLVED, that the city council makes the following findings:

(a) The Western Lake Superior Sanitary District (WLSSD) established its urban services boundary in 2003 to control the expansion of sanitary sewers "to be consistent with local comprehensive plans as well as the goals and policies of WLSSD's comprehensive wastewater plan and capital improvement programs" (WLSSD comprehensive wastewater plan, August 2003, page 41); and

(b) The WLSSD comprehensive wastewater plan states that "the location of this boundary will be evaluated at the end of the planning period [end of 2007] or at other times deemed necessary by the WLSSD board; requests to expand the boundary would be evaluated on a case-by-case basis and at a minimum would need to be consistent with local comprehensive plans" (WLSSD comprehensive wastewater plan, August 2003, page 42); and

(c) The city's comprehensive land use plan (adopted in June 2006) indicates that the North Shore area should be developed at a "rural residential" density of one unit per five acres and that "rural residential" lands are not expected to receive most city services in order to manage infrastructure cost; and

(d) The city's comprehensive land use plan also shows the North Shore covered by the "sensitive lands overlay" which indicates that "the sensitive lands overlay areas on the future land use map identify areas with high natural resource value qualities" where "the city will create and use appropriate development standards that protect the natural functions of the land regardless of ownership patterns;" and

(e) The "rural residential" future land use and "sensitive lands overlay" both located on the North Shore present a sort of paradox where the former indicates that municipal services should be limited or nonexistent on the North Shore while the latter suggests that the area is made up of high quality natural features that call for a high level of protection; and

(f) Where conflicts in land use or policy recommendations exist in the comprehensive plan, consideration should be given to the more foundational elements of the comprehensive plan,

the governing principles established by city council Resolution 05-0703, where Principle 10, "take sustainable actions," and Principle 2, "declare the necessity and secure the future of undeveloped places," take precedence over Principle 12, "create efficiencies in delivery of public services"; and

(g) Though experts in the wastewater field assert that septic systems can work in certain soil conditions if properly installed and maintained and that septic systems may need to be reconstructed periodically, city planning and engineering staff believe this does not lead to the long-term sustainability that is called for in the comprehensive plan and is needed to preserve the important habitat areas on the North Shore of Lake Superior; and

(h) There are approximately 900 acres of undeveloped land along the North Shore upslope of the expressway that will likely be developed residentially over the next 20 years which will yield up to 180 new housing units and that the addition of 180 individually managed septic systems does not provide the long-term, sustainable solution for preserving the natural environment in the Lake Superior basin that is called for in the comprehensive plan; and

(i) Though the sanitary sewer system in Duluth has experienced overflows in the recent past, improvements are being made to address these problems and that, in the long term, the city and WLSSD are more likely to properly maintain a sanitary sewer system on the North Shore rather than depending on 180 individual landowners to maintain individual septic systems; and

(j) Developments with on site septic systems typically require lot sizes to be in the two to five acre size range in order to allow space for a home, yard, and sites for a primary and back up septic system which results in more land disturbance as well as greater street length to serve the development when compared to the land disturbance that results from a typical development on municipal sewer with one-half to three-fourths acre lot with a home and yard; and

(k) There are dozens of wetlands, streams and other drainages that flow through the North Shore to Lake Superior and the siting of 180 two to five acre residential building lots will impact a significantly higher number of streams and wetlands than more compact developments with the same number of lots that are served by sanitary sewers; and

(l) The planning commission, at its May 13, 2008, regular meeting, recommended by a five to three vote that the WLSSD urban services boundary be amended as proposed; and

(m) The recommendation was made because the city planning commission found that the proposed urban services boundary expansion is consistent with the Duluth comprehensive land use plan.

BE IT FURTHER RESOLVED, that the city council of the city of Duluth requests that the Western Lake Superior Sanitary District expand its urban services boundary to include the area depicted in the map (Exhibit A) on file with the city clerk as Public Document No. 08-0527-17.

Resolution 08-0332 was unanimously adopted.

Approved May 27, 2008

DON NESS, Mayor

- - -

WHEREAS, the state of Minnesota, pollution control agency, administers financial assistance for public efforts to conserve energy and reduce emissions, and

WHEREAS, the city of Duluth desires financial assistance under the Minnesota pollution control agency grant program.

NOW, THEREFORE, BE IT RESOLVED, as follows:

(a) That the Duluth City Council approves of and supports the city administration in filing an application to Minnesota pollution control agency for financial assistance in the amount of

\$10,000 to develop a model of energy use in the city, develop a strategy to conserve energy, and share that strategy;

(b) That the proper city officers are hereby authorized and directed to execute and file an application with the Minnesota pollution control agency and to provide all information and documentation as required to become eligible for possible funding assistance;

(c) That the city of Duluth does agree to obligate the funds required to satisfactorily complete the proposed project and become eligible for reimbursement under the terms and conditions of the Minnesota pollution control agency grant program. Matching funds to come from the city's Energy Management Fund 257.

Resolution 08-0333 was unanimously adopted.

Approved May 27, 2008

DON NESS, Mayor

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WHEREAS, the Duluth Superior Area Community Foundation administers financial assistance for community development purposes, and

WHEREAS, the city of Duluth desires financial assistance from the Duluth Superior Area Community Foundation grant program.

NOW, THEREFORE, BE IT RESOLVED, as follows:

(a) That the Duluth City Council approves of and supports the city administration in filing an application to Duluth Superior Area Community Foundation for financial assistance in the amount of \$10,000 to model carbon emissions in the city of Duluth and develop and implement a plan to reduce these emissions;

(b) That the proper city officers are hereby authorized and directed to execute and file an application with the Duluth Superior Area Community Foundation and to provide all information and documentation as required to become eligible for possible funding assistance;

(c) That the city of Duluth does agree to obligate the funds required to satisfactorily complete the proposed project and become eligible for reimbursement under the terms and conditions of the Duluth Superior Area Community Foundation's grant program. Matching funds to come from the city's Energy Management Fund 257.

Resolution 08-0334 was unanimously adopted.

Approved May 27, 2008

DON NESS, Mayor

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BY PRESIDENT REINERT:

BE IT RESOLVED, that the city of Duluth accepts a restricted gift of \$25,000 from the Duluth-Superior Area Community Foundation to be used for the replacement of the playground at Park Point with a sustainable playground designed with a nautical theme, if possible, to be deposited in Fund 100-700-1420-4660.

BE IT FURTHER RESOLVED, that the council, on behalf of the city, extends its sincere gratitude for this generous gift, which is made by the foundation in recognition of its 25th anniversary.

Resolution 08-0345 was unanimously adopted.

Approved May 27, 2008

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED, that Resolution 07-0720 to Ayres Associates, Inc., for furnishing professional engineering services be amended to increase the amount by \$34,425 for a new total of \$174,257, payable out of Street Improvement Fund 0440, Department/Agency 038, Object 5530, City Project No. 0127TR.

Resolution 08-0316 was unanimously adopted.
Approved May 27, 2008
DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to contract with Monroe Truck Equipment, Inc., for the purchase and installation of two dump bodies with hoists, accessories and central hydraulics system on two 2009 Sterling single-axle, Model L9511 cab and chassis units for the fleet services division in accordance with the city's specifications and the vendor's bid of \$108,250 plus \$7,036.25 sales tax, for a combined total of \$115,286.25, terms net 30, FOB destination-Duluth, Minnesota, payable from the Capital Equipment Fund 250, Department Agency 015, Organization 2008, Object 5580, Project No. CE250-V810.

Resolution 08-0327 was unanimously adopted.
Approved May 27, 2008
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with A-1 Excavating, Inc., for construction of year 2008 street improvement of Morley Heights for the engineering division for the apparent low bid of \$955,088.65, payable out of Street Improvement Program Fund 0440, Department/Agency 038, Object 5530, City Project No. 0127TR.

Resolution 08-0330 was unanimously adopted.
Approved May 27, 2008
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Duluth-Superior Erection, Inc., for construction of year 2008 Downtown brick restoration, Phase IV, for the engineering division for the apparent low bid of \$99,110, with \$81,090 payable out of General Fund 0100, Department/Agency 500, Organization 1920-2550, Object 5310, \$13,515 payable out of Water Fund 0510, \$2,252.50 payable out of Sanitary Sewer Fund 0530, and \$2,252.50 payable out of Stormwater Fund 0535, Department/Agency 500, Organization 1945, Object 5310; City Project No. 0316TR.

Resolution 08-0335 was unanimously adopted.
Approved May 27, 2008
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Levine & Son, Inc., for construction of high pressure gas mains and services in various locations for the engineering division for the apparent low bid of \$339,375, payable out of Gas Fund 0520, Department/Agency 500, Organization 1905, Object 5533, City Project No. 0428GS.

Resolution 08-0336 was unanimously adopted.
Approved May 27, 2008
DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Duluth Superior Erection, Inc., for 22nd Avenue West storm sewer repair for the apparent low bid of \$59,570, payable out of Storm Water Utility Fund 0535, Department/Agency 500, Object 1905, City Project No. 0650ST.

Resolution 08-0337 was unanimously adopted.

Approved ay 27, 2008

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter in an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-0527-18, with the John E. Bovee Revocable Trust to purchase property described therein for development of a temporary I&I holding facility in the amount of \$589,000, payable to Fund 5531, Agency 500, Object 5532.

Resolution 08-0338 was unanimously adopted.

Approved May 27, 2008

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB, Inc., for professional engineering services for the 2009 municipal state aid turnback project located on Second Street between Mesaba Avenue and 21st Avenue East, and Second Street between 21st Avenue East and 24th Avenue East, SAP 118-130-04, City Project No. 0383TR, Sixth Avenue East between Second Street and Third Street, SAP 118-192-001, City Project No. 0441TR, in the estimated amount of \$159,972, payable from Permanent Improvement Fund 0411, Department/Agency 035, Object 5530.

Resolution 08-0339 was unanimously adopted.

Approved May 27, 2008

DON NESS, Mayor

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The city council finds:

(a) The ordinances of the city allow a limited and controlled archery deer harvest in the city; and

(b) The standards and rules for each hunt are determined by resolutions of the council.

NOW, THEREFORE, BE IT RESOLVED, that this resolution supercedes Resolution 05-0306, as amended by Resolution 05-0434, and 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 chief administrative officer 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 or related to participating in the deer hunt, and to defend and indemnify the city and its agent for any claims against them which arise out of the hunter's activities related to participating in the deer hunt, directly or indirectly;

(d) Within 48 hours of taking a deer, each hunter shall report, on a form acceptable to the hunt manager or, if none, the chief administrative officer 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. 08-0527-19;

(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 chief administrative officer or his/her designee in managing the hunt. If there is no such hunt management contractor, then the hunt shall be managed by the chief administrative officer or his/her designee. Under any circumstances, the law enforcement officers of the city, state and federal government retain their jurisdiction. The hunt management agent's rules and rule book apply and are enforceable regulations of the hunt;

(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) Hunting from tree stands is allowed. Each stand platform must be a minimum of 12 feet above ground except in areas where ground blinds have been approved for use by the city council and described in the hunt management agent's ground blind policy and the agent's rule book;

(j) 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;

(k) This resolution continues in force until superceded by another resolution governing the seasonal deer hunt in the city.

Resolution 08-0317 was unanimously adopted.

Approved May 27, 2008

DON NESS, Mayor

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The following resolutions were also considered:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2008, subject to departmental approvals and the payment of sales and property taxes:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Zeitgeist Arts, LLC (Teatro Zuccone), 222 East Superior Street, transferred from Zooch of Duluth, LLC (Teatro Zuccone), same address.

Resolution 08-0320 was adopted upon the following vote:

Yeas: Councilors Anderson, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 7

Nays: None -- 0

Abstention: Councilor Cuneo -- 1

Absent: Councilor Krause -- 1

Approved May 27, 2008

DON NESS, Mayor

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At this time, President Reinert moved to consider Resolution 08-0342, retaining Johnson, Killen & Seiler as special counsel to assist the city attorney in retiree health care litigation, not to exceed \$50,000; Resolution 08-0343, retaining Orman, Nord, Spott & Hurd as special counsel to assist the city attorney in retiree health care litigation, not to exceed \$50,000; and Resolution 08-0344, retaining Kennedy & Graven, Chartered as special counsel to assist the city attorney in retiree health care litigation, not to exceed \$50,000, which motion was seconded and unanimously carried.

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

Don Bye stated this is a matter of legitimate concern to the city and administration, and a matter of substantial cost and potentially a substantial liability, but there has been misleading information which has been greatly exaggerated. He continued by saying this lawsuit is looking for a temporary restraining order to prevent the city council and the administration from doing what they said they were not intending to do from a previous meeting when all the parties involved met. Mr. Bye reviewed that this matter started in December 2007 and he has since met with the city attorney, mayor and chief administrative officer and thought there was an understanding that there would be no changes going into 2008. He continued by saying that in April 2008 there was a meeting with the mayor and city attorney and he was assured that no changes were intended and if any changes had been made it was a mistake that would be corrected. Mr. Bye reviewed that this matter has been dragged out due to the conflict of interest by the city attorney's office and by the district court judges who have recused themselves from the case. He stated that he is still willing to meet with the city on an informal basis or with the council in a closed session to settle this issue, but urged the council that if a law firm is hired, not to pursue any more delays or put on paper the understanding that the retirees had with the administration and the attorney's office.

In response to Councilor Fedora's questioning, Mayor Ness replied that from the administration's perspective, no policy change has been made and it sounded from what Mr. Bye stated that it was a matter of benefit administration from the health insurance administrator, Blue Cross Blue Shield of Minnesota (BC/BS). He stated that his understanding from the conversation that he was involved with is that it was an administrative issue and that the city administration was confident that the information could be found that would prove it was such, as a policy decision was not made to change any benefit at this time. Mayor Ness added that it is his hope that the dialogue will continue until that information is provided and clarified so that the legal route that puts a serious dent in the ability to communicate more constructively and pro-actively would be avoided.

President Reinert explained the voting procedures to select a law firm to represent the city.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Balloting for the firms identified above was held as follows:

08-0342 – Councilors Cuneo, Fedora and Fosle -- 3

08-0343 – Councilors Gardner and Stauber -- 2

08-0344 – Councilors Anderson, Gilbert and President Reinert -- 3

According to the procedures, President Reinert removed Resolution 08-0343 from consideration.

Councilor Fedora urged councilors to vote for a law firm from Duluth as taxpayers dollars are being spent on this lawsuit and the dollars should stay in Duluth.

The second ballot for the firms identified above was held as follows:

08-0342 – Councilors Cuneo, Fedora, Fosle and Stauber -- 4

08-0344 – Councilors Anderson, Gardner, Gilbert and President Reinert -- 4

President Reinert urged councilors to consider changing their vote to prevent another tie vote in the next ballot.

Councilor Gardner stated that since this is a local issue, whomever represents the council should be separate, above the issue and from out of town.

The third ballot for the firms identified above was held as follows:

08-0342 – Councilors Cuneo, Fedora, Fosle and Stauber -- 4

08-0344 – Councilors Anderson, Gardner, Gilbert and President Reinert -- 4

Councilor Fedora moved to table the resolutions to the end of the meeting to decide when to meet again to consider these resolutions, which motion was seconded and unanimously carried.

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RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to CDBG Agreement 20139 with NCLT, substantially in the form of that on file in the office of the city clerk as Public Document No. 08-0527-20(a) extending the term of the agreement to December 31, 2008, and increasing the amount payable thereunder from \$180,000 to \$225,000, payable from 262 CD06CD - HOUS 2270, said funding being received from the 2007 contingency account.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to HOME Agreement 20137 with NCLT, substantially in the form of that on file in the office of the city clerk as Public Document No. 08-0527-20(b) extending the term of the agreement to December 31, 2008, and increasing the amount payable thereunder from \$192,460 to \$314,851 payable from 260 020-5434, CD06HM CH06-2271, said funding being received from the 2008 HOME homeowner development project and from the HOME program income account.

Project	Project Name	Budget	New Amount	Amount of Change
2006 HOUS 2270	NCLT Deconstruction-reconstruction	\$180,000	\$225,000	\$45,000
2007 ADMC-AD04	Contingency	\$45,969	\$969	-\$45,000
CH06-2271	NCLT City Homes Phase V	\$192,460	\$314,851	\$122,391
CD08-HM	Homeowner development	\$113,299	0	-\$113,299

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Project	Project Name	Budget	New Amount	Amount of Change
2220	Deferred revenue	\$9,092	0	-\$9,092

Resolution 08-0324 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert and President Reinert -- 7

Nays: Councilor Stauber -- 1

Absent: Councilor Krause -- 1

Approved May 27, 2008

DON NESS, Mayor

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to HOME Agreement with NCLT, substantially in the form of that on file in the office of the city clerk as Public Document No. 08-0527-21, increasing the amount payable thereunder from \$19,370 to \$37,370.

Project	Project Name	Budget	New Amount	Amount of Change
2008 HOME CH08-2270	NCLT predevelopment/CHDO operating	\$19,370	\$37,370	\$18,000
2007 HOME CH07-2805	Predevelopment	\$18,000	0	(\$18,000)

Resolution 08-0325 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert and President Reinert -- 7

Nays: Councilor Stauber -- 1

Absent: Councilor Krause -- 1

Approved May 27, 2008

DON NESS, Mayor

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. 08-0527-22, with Neighborhood Housing Services of Duluth (NHS) pursuant to which NHS will administer a CDBG program revolving loan fund; NHS to retain up to \$25,000 in loan interest repayment funds from the revolving loan fund to reimburse it for its costs of administering the fund.

Resolution 08-0326 was unanimously adopted.

Approved May 27, 2008

DON NESS, Mayor

Resolution 08-0328, denying amendments to Chapter 50 of the Duluth City Code, 1959, as amended, amending Public Document No. 03-0324-15 entitled "Ramsey Village Neighborhood Documents of Implementation" (SVCNDA), was introduced by Councilor Stauber for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Councilor Stauber moved to table the resolution until June 9 for consideration with companion Ordinance 08-037, which motion was seconded and unanimously carried.

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RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to HOME Agreement with CCHC, substantially in the form of that on file in the office of the city clerk as Public Document No. 08-0527-23, increasing the amount payable thereunder from \$100,000 to \$162,376.

Project	Project Name	Budget	New Amount	Amount of Change
2007 HOME CH07-1226	CCHC Memorial Park Apartments	\$100,000	\$162,376	\$62,376
CH07-2806	Permanent rental housing - WCDO	\$55,889	0	(\$55,889)
6006 HOME CH06-2804	Affordable housing predevelopment - WCDO	\$12,975	\$6,488	(\$6,487)

Resolution 08-0329 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert and President Reinert -- 7

Nays: Councilor Stauber -- 1

Absent: Councilor Krause -- 1

Approved May 27, 2008

DON NESS, Mayor

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Resolution 08-0323, designating polling places for the September 9, 2008, state primary election and the November 4, 2008, state general election, was introduced by President Reinert for discussion.

Councilor Gardner explained that the senior citizens want to go out and vote and do not want to vote absentee and find it too hard to get to the current polling place and would like the polling site moved back to Rainbow Senior Center.

Councilor Gardner moved to amend the resolution by deleting the polling place "First Presbyterian Church (avenue entrance), 300 East Second Street" and inserting the polling place "Rainbow Senior Center (auditorium), 211 North Third Avenue East," which motion was seconded and unanimously carried.

Resolution 08-0323, as amended, was adopted as follows:

BE IT RESOLVED, that pursuant to Minnesota Statutes 204B.16, the following locations are designated as polling places for the September 9, 2008, state primary election and November 4, 2008, for the state general election:

POLLING PLACE LIST

POLLING PLACE

ADDRESS

- | | |
|--|---------------------------|
| 1. St. Michael's Catholic Church (lower level) | 4901 East Superior Street |
|--|---------------------------|

POLLING PLACE LIST

POLLING PLACE	ADDRESS
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. Temple Israel	1602 East Second Street
15. Trinity Lutheran Church	1108 East Eight 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. Rainbow Senior Center (auditorium)	211 North Third Avenue East
20. Lafayette Square (upper level)	3026 Minnesota Avenue
21. Duluth Public Library (Green Room)	520 West Superior Street
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

POLLING PLACE LIST

POLLING PLACE	ADDRESS
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

* New Polling Site

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 9, 2008, and November 4, 2008, elections.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to establish and post temporary handicapped parking zones for the September 9, 2008, and November 4, 2008, 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 08-0323, as amended, was unanimously adopted.

Approved May 27, 2008

DON NESS, Mayor

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Resolution 08-0341, designating certain trails and areas for use as off-leash dog trails and areas, by councilors Anderson, Gardner and Stauber, was introduced for discussion.

Councilor Stauber moved to table the resolution for planning commission review, 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:

INTRODUCED BY COUNCILOR STAUBER

08-037 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING PUBLIC DOCUMENT NO. 03-0324-15 ENTITLED "RAMSEY VILLAGE NEIGHBORHOOD DOCUMENTS OF IMPLEMENTATION" (SVCNDA).

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INTRODUCED BY COUNCILOR STAUBER

08-038 - 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, ONE AND TWO FAMILY RESIDENTIAL DISTRICT, TO C-5, PLANNED COMMERCIAL DISTRICT, PROPERTY AT 404 WEST MYRTLE STREET (KOEHLER/CMRA).

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INTRODUCED BY COUNCILOR STAUBER

08-039 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO HRLBUT-ZEPPE CHARITABLE TRUST FOR TWO MARQUEE'S TO PROJECT INTO AND OVER THE RIGHT-OF-WAY OF EAST SUPERIOR STREET, FOR PROPERTY LOCATED AT 222 EAST SUPERIOR STREET (AH ZEPPE FAMILY FOUNDATION).

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BY PRESIDENT REINERT AND COUNCILOR ANDERSON

08-041 - AN ORDINANCE AMENDING SECTION 29A-27 AND ADDING A NEW SECTION 29A-32.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO RENTAL LICENSING.

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The following entitled ordinances were read for the second time:

BY COUNCILORS STAUBER, ANDERSON AND GARDNER

08-035 - AN ORDINANCE AUTHORIZING LICENSING OF UNLEASHED DOGS TO USE DESIGNATED AREAS AND TRAILS AMENDING SECTION 6-36 OF THE DULUTH CITY CODE, 1959, AS AMENDED AND ADDING NEW SECTIONS 6-36.1, 6-36.2 AND 6-36.3 TO ARTICLE IV OF CHAPTER 6 THEREOF.

Councilor Stauber moved to table the ordinance for planning commission review, which motion was seconded and unanimously carried.

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INTRODUCED BY COUNCILOR FOSLE

08-036 - AN ORDINANCE AMENDING SECTIONS 43-16, 43-25, 43-31, 43-33, 43-33.1, AND 43-36 AND ADDING NEW SECTIONS 43-11.1 AND 43-33.4 TO THE DULUTH CITY CODE, 1959, AS AMENDED, ALL PERTAINING TO PROTECTION OF WATER QUALITY AND THE ENVIRONMENT THROUGH IMPROVEMENTS IN THE WASTEWATER COLLECTION SYSTEM.

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

Ted Chura and Willis Heady expressed frustration about the proposed ordinance as it is not fair to all the residents of Duluth, and now everyone who sells their house will be penalized by having to pay to get it fixed before selling it.

Suzanne Hanson, regional manager for the Minnesota pollution control agency (MPCA), encouraged approval of the ordinance as Duluth's sewers cannot handle the flow that develops

from rain and snow melts, which results in untreated wastewater flows out of manholes and lift stations to city streets and streams and then into Lake Superior. She reviewed that the MPCA has issued water quality permits to the Western Lake Superior Sanitary District (WLSSD) and the city, which require elimination of the sanitary sewer overflows and that both the city and the district have made progress, but the overflows continue to occur. Ms. Hanson reviewed the actions taken in the past by the city and district and the consent decree that has been issued by the MPCA. She continued by saying that the proposed ordinance provides the MPCA and the environmental protection agency (EPA) with reasonable assurances that the city will be able to fund the measures needed to prevent overflows by the year 2016 and that now is the time to make the fix.

Kurt Soderberg, executive director of the WLSSD, reviewed the history of council actions pertaining to this issue and that the issue on how to fund the fix for the overflows is the core of the problem. He stated that the biggest penalty which has been imposed in the past are development restrictions and the current permit has some development restrictions that are unacceptable, which makes council action on the ordinance very important.

David Ross, representing the Duluth Area Chamber of Commerce, stated the city needs to stop sending overflows into Lake Superior and violating the Clean Water Act which would result in development restrictions and significant financial penalties. He stated that the chamber is opposed to restricting the development that will help build the sewer system and wasting tax dollars to pay financial penalties, but wants to make sure that the mayor and council let the public know that every state and federal dollar available for this purpose has been pursued to aid in paying for the sewer upgrade as Duluth residents and business owners cannot afford to shoulder this financial burden.

Mayor Ness stated that this vote is one of the most important votes that the council will take in many years. He continued saying that because the city has demonstrated proactive leadership, the MPCA and EPA have given the city four additional years to complete compliance which allows the city to focus efforts on reducing inflow and infiltration, there is improvement in the development restrictions that could be imposed, and there are improved relationships between the city and WLSSD, MPCA and EPA. Mayor Ness stated that if the city does not move forward with a plan that is aggressive and proactive in addressing the overflows, the city will move back into a punitive relationship with these regulatory agencies and a path of fines and development restrictions.

Councilor Fosle agreed that the sewer overflows need to be fixed and reviewed that the council voted this project as their No. 1 priority for the legislature, but he voiced frustration that Duluth's legislators did not put this project as the first priority for the state bonding bill and therefore the city did not receive any money from the state.

Councilor Fedora explained his objection to this ordinance was that the city is asking people who are not a part of the problem to pay for the solution while the city should be going to the state and federal government first before going to the taxpayers.

Councilor Gilbert agreed that the plan was good, but the funding source needed to be adjusted to reflect different size users and their contribution to the problem - having larger users pay more than the smaller contributor.

Councilor Stauber voiced concern on the way the city has selected the 175 laterals that need to be replaced and the cost to those homeowners who have to bear the cost of fixing that problem, and because the Charter requires fees to be set on an annual basis, this council is unable to set the \$9.70 fee for the length of the program and future councils may change the fee each year.

The ordinance failed upon the following vote (Public Document No. 08-0527-24):

Yeas: Councilors Anderson, Cuneo, Gardner and President Reinert -- 4

Nays: Councilors Fedora, Fosle, Gilbert and Stauber -- 4

Absent: Councilor Krause -- 1

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INTRODUCED BY COUNCILOR ANDERSON

08-034 (9910) - AN ORDINANCE AMENDING SECTION 6-77 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO HUNTING DEER.

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

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After council discussion on when to hold a special meeting to vote on the resolutions 08-0342, 08-0343 and 08-0344 relating to the retiree health care litigation, President Reinert moved to recess the meeting until Friday, May 30, at 4:00 p.m., which motion was seconded and unanimously carried at 9:37 p.m.

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

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ORDINANCE NO. 9910

AN ORDINANCE AMENDING SECTION 6-77 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO HUNTING DEER.

The city of Duluth does ordain:

Section 1. That Section 6-77 of the Duluth City Code, 1959, as amended, be amended 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 chief administrative officer 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 chief administrative officer 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) or an area determined by the hunt agent to be in

special need of deer removal (hot spot) and approved by council resolution or council approved contract;

(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 to hunt as close as 200 feet from such a building;

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 chief administrative officer 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 chief administrative officer 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 chief administrative officer or his or her designee. The agent designated by the council may act for the chief administrative officer 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, the city’s hunt agent’s rulebook for hunters, 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, provided that written proof of disability is provided to the city’s hunt agent before hunting;

(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;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

(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 or administratively found to have violated this Section, or any other law, or the rules of the hunt set by the council or the hunt agent's rulebook, as a result of actions related to deer harvesting authorized by this Section, shall be disqualified, for a period determined to be appropriate by the hunt agent, but not greater than 40 years from the date of conviction, or violation, whichever is later, from being certified as qualified to harvest deer within the city. The city or the city's hunt agent may, by due process, determine the commission of a violation and impose an appropriate period of disqualification, which decision can, within 15 days, be appealed, by written notice, to the city's chief administrative officer;

(h) Reports. Each person who harvests a deer pursuant to this Section shall report that fact to the chief administrative officer or his or her designee or his or her agent within 48 hours of the taking. Each year, the chief administrative officer 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 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: July 11, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: None -- 0

Absent: Councilor Krause -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed May 27, 2008

Approved May 27, 2008

DON NESS, Mayor

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OFFICIAL PROCEEDINGS

Continuation of the May 27, 2008, Duluth City Council meeting held on Friday, May 30, 2008, 4:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0530-01 Gerald J. Brown and Robert H. Magie, III, communication pertaining to the retaining of a law firm for the retiree healthcare litigation (08-0342R, 08-0343R, 08-0344R). -- Received

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RESOLUTIONS TABLED

Councilor Gardner moved to remove Resolution 08-0342, retaining Johnson, Killen & Seiler as special counsel to assist the city attorney in retiree health care litigation, not to exceed \$50,000; Resolution 08-0343, retaining Orman, Nord, Spott & Hurd as special counsel to assist the city attorney in retiree health care litigation, not to exceed \$50,000; and Resolution 08-0344, retaining Kennedy & Graven, Chartered as special counsel to assist the city attorney in retiree health care litigation, not to exceed \$50,000, from the table, which motion was seconded and unanimously carried.

Balloting for the firms identified above was held as follows:

08-0342 – Councilors Cuneo, Fedora and Fosle – 3

08-0343 – Councilor Krause – 1

08-0344 – Councilors Anderson, Gardner, Gilbert, Krause and President Reinert -- 5

Resolution 08-0344 was adopted as follows:

RESOLVED, that pursuant to Section 26 of the City Charter, the proper city officials are authorized to contract with Kennedy & Graven, Chartered, to assist the city attorney in the representation of the city in a matter currently pending in the St. Louis County district court and entitled Hartley Conrad, Paula Savela and Carol Griak v. City of Duluth, Court File No. 69DU-CV-08-1793, and to be available on a continuing basis to advise the city on the issues involved in the lawsuit, as set out in the request for proposals, pursuant to its proposal dated May 20, 2008, not to exceed \$50,000 payable from Fund 610-036-1650-5319.

Resolution 08-0344 was adopted upon the following vote:

Yeas: Councilors Anderson, Gardner, Gilbert, Krause and President Reinert -- 5

Nays: Councilors Cuneo, Fedora, Fosle and Stauber -- 4

Approved May 30, 2008

DON NESS, Mayor

- - -

The meeting was adjourned at 4:12 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 9, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

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The minutes of council meetings held on April 7, 14 and 28, 2008, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0609-01 Forest Hill Cemetery, et al. (two signatures), petition to reclassify from S to R-1-b Lots 6 - 14, Block 4, Woodland Park Sixth Division. -- Assessor

08-0609-02 John Hovland/White Pine Development petition to vacate all the streets, alleys and easements in the new Plat of Eastridge. -- Assessor

08-0609-14 William Narog communication regarding proposed ordinance relating to rental licensing (08-041-O). -- Received

08-0609-03 Vineyard Church appealing cost of assessment for undisclosed sewer connection fees on property at 1533 West Arrowhead Road. -- Received

Ben Folman, pastor of Vineyard Church, spoke in support of their appeal for the reasons of: city engineering did not follow their own procedures in filing this assessment with the county recorders office; these connection agreements were chosen not to be filed with the county recorders office; if these fees would have been filed, it would have been discovered when a title search was done on the property; this has created an undue hardship on the church because this has not been budgeted for; there is no legal authority for the city to assess to a prior owner a portion of the fee and defer the remaining, because that owner chose not to develop the remaining part of the property; Section 43-56 of the Code does not require the current cost of \$90 a front foot and the sewer system does not extend the full 200 feet in front of the property. In conclusion, he requested a full refund or at least a partial refund or, if it has to be paid, that it is at the rate of \$ 44.50 front foot rate.

Chief Administrative Officer Lisa Potswald reviewed how this is a connection fee and is listed in the Code and that the prior property owner did not properly convey the information about the outstanding connection fees when the property was sold to the church.

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08-0609-15 The following communications regarding proposed ordinance pertaining to improvements in the wastewater collection system (08-036-O and 08-049-O): (a) Nancy Anderson; (b) Duane Forbort; (c) Chris Lane; (d) Judith Long; (e) Scott Miller; (f) Richard Paulson. -- Received

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REPORTS FROM OTHER OFFICERS

08-0609-04 Assessor letter of sufficiency of petition to reclassify from S to R-1-b Lots 6 - 14, Block 4, Woodland Park Sixth Division. -- Received

08-0609-05 Clerk application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from Duluth Amateur Hockey on January 9, 2009. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

- 08-0609-06 Civil service board minutes of May 6, 2008, meeting. -- Received
- 08-0609-07 Community development committee minutes of: (a) February 26; (b) March 25, 2008, meetings. -- Received
- 08-0609-08 Duluth legacy endowment fund advisory board minutes of: (a) February 26; (b) March 25; (c) April 29, 2008, meetings. -- Received
- 08-0609-09 Duluth airport authority balance sheet of March 31, 2008. -- Received
- 08-0609-10 Duluth transit authority: (a) Income statement for February 2008; (b) Minutes of March 26, 2008, meeting. -- Received
- 08-0609-11 Library board minutes of: (a) March 25; (b) April 22, 2008, meeting. -- Received
- 08-0609-12 Special board of review minutes of May 15, 2008, meeting. -- Received
- 08-0609-13 Tree commission minutes of: (a) March 18; (b) April 15, 2008, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Dave Barschdorf, Gordon Downs, Brenda Anderson, Gary Glass, Duluth School Board member, Clyde Nelson, vice president of Citizens Research Council, Ken Bergman, Chris Stemper and Rob Cotter felt that the school district's red plan should be on the ballot because: Central High School was built in 1972 and should not be torn down; that at least 40 homes will be taken and thus off the tax rolls; homeowners could have their homes taken by eminent domain if they do not want to sell; a petition with over 3,000 signatures is on file with the attorney general's office; the school district already has passed a bond issue for expenses; the school board administration controlled the recent meeting between the school board and city council; local businesses are opposed to this property tax increase; the school district administration and most of the school board members have totally ignored the citizens; the council in the past has made suggestions, comments and recommendations on issues that did not pertain to the council; the school district does not want to work with the city council; this plan will cost over \$400 million; the increased transportation and future maintenance/repair costs have not been budgeted for; the citizens of Duluth need to be protected; there has been no information available about the claimed savings; if this plan is allowed to proceed, the council will be forced to vacate streets, approve rezoning and vote against needed sewer/street improvements; foreclosures will likely increase with this plan; there will be increased adverse environmental impacts from all this construction; beautiful neighborhoods are being bulldozed down and when they take schools out of the central part of a city, blight follows.

Mimi Larson spoke in support of the school district's red plan, noting: the appropriateness of boundaries between public entities; the school district exercised "due diligence" with the development of the long range plan; there was a citizen group involved; there was an 18 month period where there were community presentations; thousands of opinions were listened to and there never will be 100 percent consensus on this plan.

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RESOLUTION TABLED

Councilor Stauber moved to remove Resolution 08-0328, denying amendments to Chapter 50 of the Duluth City Code, 1959, as amended, amending Public Document No. 03-0324-15 entitled "Ramsey Village Neighborhood Documents of Implementation" (SVCNDA), from the table, which motion was seconded and unanimously carried.

- - -

Councilor Stauber moved to suspend the rules to consider Ordinance 08-037 at this time, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR STAUBER

08-037 (9911) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING PUBLIC DOCUMENT NO. 03-0324-15 ENTITLED "RAMSEY VILLAGE NEIGHBORHOOD DOCUMENTS OF IMPLEMENTATION" (SVCNDA).

- - -

Resolution 08-0328 failed unanimously (Public Document No. 08-0609-17).

- - -

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

- - -

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

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
Irving Youth Hockey	Kom On Inn, 332 North 57th Avenue West

Resolution 08-0355 was unanimously adopted.

Approved June 9, 2008

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Grandma's Angie's, Inc. (Little Angie's Cantina), 11 East Buchanan Street, for June 21, 2008, with the serving ceasing at 4:00 p.m.

Grandma's Sports Bar and Grill, Inc. (Grandma's Sports Garden), 425 Lake Avenue South, with the serving ceasing at 1:00 a.m.

Lemon Reef, Inc. (Reef Bar), 2002 London Road, for June 21, 2008, with the serving ceasing at 3:00 p.m.

Dubh Linn Pub & Billiards, LLC (Dubh Linn Pub & Billiards), 109 West Superior Street, for July 10, 2008, for Rock the Block event from 4:00 p.m. to 8:00 p.m.

Hospitality of Duluth, LLC (Aces on First), 113 West First Street, for July 11, 2008, with the music and serving ceasing at midnight.

Hippo Down the Street, LLC (Carmody Irish Pub), 308 East Superior Street, for July 12, 2008, with the music and serving from 8:00 p.m. to midnight.

Resolution 08-0356 was unanimously adopted.

Approved June 9, 2008

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the library board of Martha Watson, for a term expiring on June 1, 2012, replacing Mavis Whiteman, is confirmed.

Resolution 08-0349 was unanimously adopted.

Approved June 9, 2008

DON NESS, Mayor

- - -

BY COUNCILOR GARDNER:

RESOLVED, that the Duluth City Council hereby reappoints Portia Johnson to the civil service board for a term expiring on May 1, 2014.

FURTHER RESOLVED, that the Duluth City Council hereby appoints John D. Schwetman to the civil service board for a term expiring on May 1, 2013, replacing Dennis E. Birchland.

FURTHER RESOLVED, that the Duluth City Council hereby appoints Michelle Hooey to the civil service board for a term expiring on May 1, 2009, replacing Keith J. Stauber who resigned.

Resolution 08-0362 was unanimously adopted.

Approved June 9, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an amendment to URAP program agreement and lien, substantially in the form of that on file in the office of the city clerk as Public Document No. 08-0609-18(a), with MPA extending the term of the loan.

FURTHER RESOLVED, that the proper city officials are authorized to enter into a modification agreement to the HOME loan program agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 08-0609-18(b), with MPA extending the term of the loan.

FURTHER RESOLVED, that the proper city officials are authorized to enter into a master subordination agreement and estoppel certificate substantially in the form of that on file in the office of the city clerk as Public Document No. 08-0609-18(c), with MHFA, the greater Minnesota housing fund (GMHF), the HRA, LISC and Center City Housing Corporation (Center City) setting forth the priority of the parties' liens.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

FURTHER RESOLVED, that the city's manager of community development is authorized to give written approval of further subordination of the city's loans.

Resolution 08-0360 was unanimously adopted.

Approved June 9, 2008

DON NESS, Mayor

- - -

RESOLVED, that Resolution 08-0124 which authorized city officials to extend the contract with Como Oil and Propane Company through December 31, 2008, is hereby amended (Change #2) to provide for the purchase and delivery of additional liquid propane for the Lakewood water treatment plant in the amount of \$37,558.69 plus \$2,441.31 sales tax, for a total increase of \$40,000 and a new contract total of \$295,165.25, terms net 30, FOB destination, and payable from the Water Fund 510, Department/Agency 500, Organization 1955, Object 5390.

Resolution 08-0346 was unanimously adopted.

Approved June 9, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Viele Contracting, Inc., for construction of the Harrison Community Center parking lot for the engineering division for the apparent low bid of \$38,630, payable out of CDBG Fund 0262, Department/Agency 020, Object 5530, City Project No. 0640TR.

Resolution 08-0352 was unanimously adopted.

Approved June 9, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Viele Contracting, Inc., for construction of 54th Avenue East from Norwood Street to 145 feet northerly for the engineering division for the apparent low bid of \$25,490, payable out of Self Insurance Liabilities Fund 0610, Department/Agency 036, Organization 1651, Object 5441, City Project No. 0652TR.

Resolution 08-0353 was unanimously adopted.

Approved June 9, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Kalkbrenner Plumbing and Heating, Inc., for rehabilitation of private sewer services for the engineering division for the apparent low bid of \$158,300, payable out of the Sanitary Sewer Fund 0530, Department/Agency 500, Organization 1970, Object 5535, City Project No. 0700SN.

Resolution 08-0354 was unanimously adopted.

Approved June 9, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with A. Johnson Company, dba Arrowhead Painting Company, for the painting of 2,207 gas meter piping sets throughout the city of Duluth for the customer service division for the low bid of \$23,923.88, payable out of Gas Fund 0520, Department/Agency 500, Organization 1905, Object 5535, City Project Number 0381GS.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Resolution 08-0358 was unanimously adopted.

Approved June 9, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to apply for and, if offered, accept a Minnesota cross country trail assistance program grant with the Minnesota department of natural resources for the maintenance of the Duluth cross country trails for the 2008-2009 season in the amount of \$19,630; said funds to be deposited in the General Fund 100-500-1920-2550-4225.

Resolution 08-0359 was unanimously adopted.

Approved June 9, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept \$36,084.76 from the Arrowhead Library System for use in 2008 by the Duluth public library to purchase library materials and access to on-line resources, said sum to be deposited in Fund 100-300-1702-4654-02.

Resolution 08-0350 was unanimously adopted.

Approved June 9, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-0609-16, with the Keene Creek Youth Organization allowing the nonexclusive use of the Irving Recreation Center and grounds for the operation of youth recreation programs.

Resolution 08-0361 was unanimously adopted.

Approved June 9, 2008

DON NESS, Mayor

- - -

The following resolutions were also considered:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC, for construction of year 2008 street improvement of Fairmount North for the engineering division for the apparent low bid of \$534,942.60, payable out of Street Improvement Fund 0440, Department/Agency 038, Object 5530, City Project No. 0125TR.

Resolution 08-0351 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Fedora -- 1

Approved June 9, 2008

DON NESS, Mayor

- - -

Councilor Gilbert left his seat at this time.

- - -

RESOLVED, that the reappointments by Mayor Ness to the American Indian commission of Michelle M. Gordon, Anthony F. LaDeaux and Warner B. Wirta and the appointment of Ron Boshey, Sr., replacing Michael Sayers who resigned, for terms expiring on May 12, 2010, are confirmed.

FURTHER RESOLVED, that the reappointments by Mayor Ness to the American Indian commission of Ricky W. DeFoe and Joycelyn Dorscher and the appointment of Antoinette Dickenson, replacing Brian C. Wilson, Jr., who resigned, for terms expiring on May 12, 2011, are confirmed.

Resolution 08-0348 was unanimously adopted.

Approved June 9, 2008

DON NESS, Mayor

- - -

Councilor Gilbert returned to his seat at this time.

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCE RECONSIDERED

INTRODUCED BY COUNCILOR GILBERT

08-036 - AN ORDINANCE AMENDING SECTIONS 43-16, 43-25, 43-31, 43-33, 43-33.1, AND 43-36 AND ADDING NEW SECTIONS 43-11.1 AND 43-33.4 TO THE DULUTH CITY CODE, 1959, AS AMENDED, ALL PERTAINING TO PROTECTION OF WATER QUALITY AND THE ENVIRONMENT THROUGH IMPROVEMENTS IN THE WASTEWATER COLLECTION SYSTEM.

Councilor Gilbert stated that he is removing his previous request to have this ordinance listed for reconsideration.

- - -

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR GILBERT

08-047 - AN ORDINANCE PERTAINING TO THE COMMUNITY ARTS SET-ASIDE, AMENDING SECTION 20-19 OF THE DULUTH CITY CODE, 1959, AS AMENDED

- - -

BY COUNCILOR KRAUSE

08-042 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING SECTION 50-118 RELATING TO INTERIM ORDINANCES.

- - -

BY COUNCILOR KRAUSE

08-045 - AN ORDINANCE PERTAINING TO THE COMMUNITY ARTS SET-ASIDE, AMENDING SECTION 20-19 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILORS KRAUSE AND FEDORA

08-044 - AN ORDINANCE PERTAINING TO THE DULUTH PUBLIC ARTS COMMISSION; AMENDING SECTION 2-109 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Gardner moved to suspend the rules to hear from a speaker on this ordinance, which motion was seconded and unanimously carried.

Dennis Lamkin, representing the Duluth public arts commission, noted that: putting a cap on the amount to be donated of \$100,000 is reasonable; that the annual allocation of the

hotel/motel tax be continued because it is used to maintain public art and that with their organization becoming a 501(C)(3), the purchasing and spending oversight by the council is appropriate.

- - -

INTRODUCED BY COUNCILOR STAUBER

08-040 - AN ORDINANCE AMENDING SECTION 50-36.3 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ALLOWING SUBSURFACE SEWAGE TREATMENT SYSTEMS IN LOW DENSITY PLANNED DEVELOPMENTS.

- - -

INTRODUCED BY COUNCILOR FOSLE

08-043 - AN ORDINANCE AUTHORIZING REDEVELOPMENT AGREEMENT WITH MINNESOTA POWER PERTAINING TO DULUTH STEAM DISTRICT NO. 2 AND THE SALE OF CERTAIN PROPERTY, RIGHTS AND INTERESTS AS AUTHORIZED THEREIN.

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INTRODUCED BY COUNCILOR FOSLE

08-049 - AN ORDINANCE AMENDING SECTIONS 43-16, 43-25, 43-31, 43-33, 43-33.1, 43-33.2 AND 43-36 AND ADDING NEW SECTIONS 43.11.1 AND 43-33.4 TO THE DULUTH CITY CODE, 1959, AS AMENDED, ALL PERTAINING TO PROTECTION OF WATER QUALITY AND THE ENVIRONMENT THROUGH IMPROVEMENTS IN THE WASTEWATER COLLECTION SYSTEM.

Councilor Gardner moved to suspend the rules to hear from a speaker on this ordinance, which motion was seconded and unanimously carried.

Dave Barschdorf expressed his concern that, seeing that the federal government wants these changes, it should also provide the funding.

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The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR STAUBER

08-038 (9912) - 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, ONE AND TWO FAMILY RESIDENTIAL DISTRICT, TO C-5, PLANNED COMMERCIAL DISTRICT, PROPERTY AT 404 WEST MYRTLE STREET (KOEHLER/CMRA).

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

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INTRODUCED BY COUNCILOR STAUBER

08-039 (9913) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO HRLBUT-ZEPPE CHARITABLE TRUST FOR TWO MARQUEE'S TO PROJECT INTO AND OVER THE RIGHT-OF WAY OF EAST SUPERIOR STREET, FOR PROPERTY LOCATED AT 222 EAST SUPERIOR STREET (AH ZEPPE FAMILY FOUNDATION).

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

Yeas: Councilors Anderson, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Cuneo -- 1

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BY PRESIDENT REINERT AND COUNCILOR ANDERSON

08-041 (9914) - AN ORDINANCE AMENDING SECTION 29A-27 AND ADDING A NEW SECTION 29A-32.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO RENTAL LICENSING.

Councilor Gardner moved to suspend the rules to hear from speakers on this ordinance, which motion was seconded and unanimously carried.

Trent Wickman requested that the residential neighborhood of Woodland be included in the protection zone, for the reasons of: Campus Neighbors never discussed the expansion of the protection zone boundaries; student rental growth will take place just beyond the boundaries; the Woodland neighborhood is closer to the University of Minnesota–Duluth (UMD) than areas in the zone; Woodland already has a high number of college rentals; not including Woodland is arbitrary and capricious; UMD expands their programs, but never includes funding for on campus housing and funding to enforce new behavior ordinances will not be there.

Rick Ball, executive director of the Housing and Redevelopment Authority, expressed support for the ordinance, noting the buy back program where existing rentals would be purchased for resale as owner occupied.

Gary Kalligher stated that the 300 foot aspect will not necessarily solve many of the problems, it only puts a cap on the number of rentals within the protection zone that this ordinance establishes. He also noted that there are 450 rentals that have received a permit and if 30 percent of them actually become a rental, the whole university neighborhood will tip and this issue needs to be addressed.

Councilor Stauber moved to amend Section 3 of the ordinance by deleting "2010" and inserting "2012," which motion was seconded and discussed.

Councilors discussed the merits of a sunset date.

Councilor Stauber's amendment carried as follows:

Yeas: Councilors Cuneo, Gardner, Gilbert, Krause and Stauber -- 5

Nays: Councilors Anderson, Fedora, Fosle and President Reinert -- 4

Councilor Stauber moved to amend Section 29A-27(b) in Section 1 of the ordinance to add the Lower Woodland neighborhood to the protection zone by deleting "Fairmont" twice and inserting "Anoka" twice, deleting "Woodland" twice and inserting "St. Paul" twice and deleting "/southeasterly" in front of the last reference to St. Paul Avenue, which motion was seconded and discussed.

Councilors Krause and Gardner opposed the amendment for the reasons of: it expands the zone; it would keep pushing it further outward into the community; the committee working on this studied the boundaries very carefully and all could agree to live with these, even though they might have disagreed.

Councilor Stauber's amendment carried as follows:

Yeas: Councilors Anderson, Cuneo, Fedora, Gilbert, Stauber and President Reinert -- 6

Nays: Councilors Fosle, Gardner and Krause -- 3

Councilors Fedora, Krause and Fosle opposed the ordinance for the reasons of: there are demarcation lines where someone on one side of the street is protected and the other side is not; this needs to be set by neighborhoods; this takes away property rights to be able to sell a house; by creating a "targeted" zone, it will not be a benefit to the areas around it; new zones that will be

created will be detrimental; there is a concern that students coming back this fall will be coming into something that will be hurting them and this ordinance does not stop someone from selling a house on contract for deed for nine months out of the year and then canceling it in June.

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

Yeas: Councilors Anderson, Cuneo, Fedora, Gilbert, Stauber and President Reinert -- 6

Nays: Councilors Fosle, Gardner and Krause -- 3

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The meeting was adjourned at 8:40 p.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9911

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING PUBLIC DOCUMENT NO. 03-0324-15 ENTITLED "RAMSEY VILLAGE NEIGHBORHOOD DOCUMENTS OF IMPLEMENTATION" (SVCNDA).

The city of Duluth does ordain:

Section 1. That development within the boundaries of Traditional Neighborhood District Number 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. 9635 and Ordinance No. 9753, be further amended to:

Allow a change in Public Document No. 03-0324-15 to allow Type VIII structures (mixed use building residential with commercial space) on Lots 13, 14 and 15, Block 190, 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: July 13, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

Passed June 9, 2008

Approved June 9, 2008

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9912

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, ONE AND TWO FAMILY RESIDENTIAL DISTRICT, TO C-5, PLANNED COMMERCIAL DISTRICT, PROPERTY AT 404 WEST MYRTLE STREET (KOEHLER/CMRA).

The city of Duluth does ordain:

Section 1. That Plate No. 28 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 at end of meeting]

(Reference Planning Commission File No. 08037)

Section 2. That the city planning commission unanimously recommended approval of this ordinance amendment following a public hearing at their May 13, 2008, regular meeting and that such public hearing was duly noticed (FN 08037).

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 20, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

Passed June 9, 2008
Approved June 9, 2008
DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9913

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO HRLBUT-ZEPPA CHARITABLE TRUST FOR TWO MARQUEE'S TO PROJECT INTO AND OVER THE RIGHT-OF WAY OF EAST SUPERIOR STREET, FOR PROPERTY LOCATED AT 222 EAST SUPERIOR STREET (AH ZEPPA FAMILY FOUNDATION).

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 Hrlbut-Zeppa Charitable Trust, their successors and interests, referred to herein as the permittee, to occupy, erect and maintain two marquee's into and over that part of East Superior Street, adjoining Lot 44, westerly half of Lot 46, and the easterly half of Lot 42, Block 1, Central Division Duluth, as the same was dedicated to the use of the public and the Plat of Central Division Duluth, on file and of record in the office of the register of deeds in and for St. Louis County, Minnesota, described as follows:

Beginning 2'-11" to the east of the intersection of Lots 42, 44 and Superior Street, project 7'-0" into the Superior Street ROW, for 17'-4" toward the east. Then, beginning 45'-4" to the east of the intersection of Lots 42, 44 and Superior Street, project 7'-0" into the Superior Street ROW, for 17'-4" toward the east.

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 before this resolution shall be effective for any purpose whatsoever, the aforesaid permittee shall file with the city clerk: a duly executed and acknowledged written acceptance of the terms of this resolution; a certificate of insurance approved as to form by the city attorney evidencing that the permittee has in force insurance meeting the following requirements:

Comprehensive general liability insurance policy shall be maintained in force by permittee in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage. Such coverage shall include all permittee activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittee. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of duluth. The city of duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said awning 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 marquee's 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 Superior Street and agree that the city of Duluth shall not be liable for damage caused to such marquee's 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 fixed awning in said East Superior Street.

Section 6. That the permittee shall further observe the following conditions:

- (a) All required building permits shall be obtained for said marquee's;
- (b) Written approval must be secured from city engineering prior to construction;

(c) Plans as shown on pages V H 4, V H 5 and V H 6 of staff report FN 08031 are the controlling documents for the placement of the marquee's over the right-of-way;

(d) That any alterations to the approved plan that do not alter major elements of the plan may be approved by the director of planning and development without further planning commission or city council action; however, no such administrative approval shall constitute a variance from the provisions of City Charter Chapter XIII, Section 100, or Chapter 45, Section 45-4.1, of the City Legislative Code;

(e) Permits from building safety are required prior to start of construction.

Section 7. That this ordinance shall not be valid if the above cited permits in Section 6 are not issued and improvements completed within 12 months from the effective date of this ordinance.

Section 8. The term of this permit shall expire with the sale of the property by the permittee and said marquees and all fixtures of every kind whatsoever attached thereto shall be removed from the tract of land described above within 60 days, unless the new property owner applies for and received a replacement ordinance within 60 days.

Section 9. 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.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 13, 2008)

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

Yeas: Councilors Anderson, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Cuneo -- 1

Passed June 9, 2008
Approved June 9, 2008
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9914

BY PRESIDENT REINERT AND COUNCILOR ANDERSON:

AN ORDINANCE AMENDING SECTION 29A-27 AND ADDING A NEW SECTION 29A-32.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO RENTAL LICENSING.

The city of Duluth does ordain:

Section 1. That Section 29A-27 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 29A-27. Definitions.

(a) Except as otherwise defined in this Section, the definitions contained in sections 201 and 202 of the year 2000 edition of the IPMC, as adopted by Section 29A-1 of this Chapter, shall apply to this Article;

(b) For purposes of this Article, "protection zone" means any parcel of land, lot or part thereof within or abutting the area described as follows: a point beginning at the point of intersection of the Lake Superior shoreline and the extended centerline of platted Eighth Avenue East, thence northwesterly along said Eighth Avenue East centerline to its point of intersection with the centerline of Superior Street Alley, thence southwesterly along the centerline of Superior Street Alley to its point of intersection with the centerline of North Sixth Avenue East, thence north westerly along the centerline of North Sixth Avenue East to its point of intersection with Central Entrance Drive, thence westerly along the centerline of Central Entrance Drive to its point of intersection with the centerline of Rice Lake Road, thence northerly along the centerline of Rice Lake Road to its point of intersection with the centerline of West Arrowhead Road, thence easterly along the centerline of West Arrowhead Road to its point of intersection with the centerline of Blackman Avenue, thence northerly along the centerline of Blackman Avenue to its point of intersection with the centerline of MacFarlane Road, thence easterly along the centerline of MacFarlane Road to its point of intersection with the centerline of Howard Gnesen Road, thence southeasterly along the centerline of Howard Gnesen Road to its point of intersection with the centerline of Old Howard Gnesen Road, thence north/northeasterly along the centerline of Old Howard Gnesen Road to its point of intersection with the centerline of South Road, thence easterly along the centerline of South Road in a straight line to its point of intersection with the northwest corner of the Third Glen Avon Division of Duluth, thence north in a straight line to its point of intersection with the centerline of Anoka Street, thence easterly along the centerline of Anoka Street to its point of intersection with the centerline of St. Paul Avenue, thence south along the centerline of St. Paul Avenue to its point of intersection with the centerline of Carlisle Avenue, thence easterly along the centerline of Carlisle Avenue to its point of intersection with the centerline of Grove Street, thence northeasterly along the centerline of Grove Street to its point of intersection with the centerline of Princeton Place, thence northeasterly along the centerline of Princeton Place to its point of intersection with the southerly boundary of Park Hill Cemetery, thence easterly along the southern boundary of Park Hill Cemetery until its point of intersection with the western easement line of Livingston Avenue, thence easterly in a straight line to its point of intersection with the centerline of Livingston Avenue, thence northerly along the centerline of Livingston Avenue to its point of intersection with the centerline of Everett Street, thence easterly along the centerline of Everett Street to its point of intersection with the centerline of Jean Duluth Road, thence southwesterly along the centerline of Jean Duluth Road to its point of intersection with the centerline of Lakeview Drive, thence southwesterly along the centerline of Lakeview Drive to its point of intersection with the centerline of Vermilion Road, thence southerly along the centerline of Vermilion Road to its point of intersection with the centerline of Congdon Park Drive, thence southeasterly along the centerline of Congdon Park Drive to its point of intersection with the centerline of 32nd Avenue East, thence southeasterly along the centerline of 32nd Avenue East to its point of intersection with the centerline of London Road, thence northeasterly along the centerline of London Road to its point of intersection with the west bank of Tischer Creek, thence southeasterly along the west bank of

Tischer Creek to its point of intersection with the Lake Superior shoreline, thence southwesterly along the Lake Superior shoreline to the point of beginning, and as depicted on the map on file with the city clerk as Public Document No. 08-0609-20;

(c) For purposes of this Article, the phrase “one family dwelling” shall have the meaning ascribed by Section 50-1.20;

(d) For purposes of this Article, the phrase “two family dwelling” shall have the meaning ascribed by Section 50-1.21;

(e) For purposes of this Article, the phrase “multiple family dwelling” shall have the meaning ascribed by Section 50-1.23.

Section 2. That Chapter 29A, Article II of the Duluth City Code, 1959, as amended, be amended to add a new Section 29A-32.1 to read as follows:

Sec. 29A-32.1. Rental restrictions in the protection zone.

(a) In areas zoned R-1-a, R-1-b and R-1-c located within the protection zone, no license shall be issued for any dwelling, rooming house or rental unit within a distance of 300 feet from any other licensed dwelling, rooming house or rental unit. The distance restriction shall not apply to the following:

- (1) A two family dwelling;
- (2) Any multiple family dwelling containing less than five dwelling

units;

(3) An owner occupied one family dwelling, provided that the number of persons occupying pursuant to a rental agreement is limited to one person;

(b) In areas zoned R-2 and R-3 located within the protection zone, no license shall be issued for any one family dwelling within a distance of 300 feet from any other licensed one family dwelling. The restriction shall not apply to the following:

(1) An owner occupied one family dwelling, provided that the number of persons occupying pursuant to a rental agreement is limited to one person;

(c) In all residentially zoned districts within the protection zone, restrictions shall not apply to short-term licenses. Except as otherwise provided, the building official may issue short-term licenses for a period not to exceed 12 consecutive months. A short-term license may not be issued more frequently than once in any three year period. Such short-term licenses shall be applied for in the same manner as other rental licenses and all rental requirements for such dwelling unit shall otherwise meet all rental licensing requirements. A short-term license may be issued for any single-family or two-family dwelling under the following circumstances:

- (1) The owner is the current occupant of the dwelling unit; and
- (2) For professional, educational or military service reasons the

owner intends to reside in another community located at least 50 miles from the dwelling unit; and

(3) The owner provides sufficient evidence of such intention to temporarily relocate to the building official. Such evidence may include, but is not limited to written offers of employment, employment transfer directives, letter of acceptance from an educational institution, or military orders.

A short-term license may be extended for an additional six months period provided that an application for extension is received prior to the expiration of the short-term license and adequate evidence justifying such an extension is submitted with the application. The building official shall act upon such application for extension within 15 business days of delivery of the application.

The decision of the building official is subject to appeal as provided in Section 29A-34;

(d) This Section shall not apply to a one family or two family dwelling that is subject to a purchase agreement for the sale of the dwelling when all of the following conditions are met:

(1) The dwelling is occupied by a seller; and

(2) The buyer and seller agree that the buyer may occupy the dwelling prior to completion of the sale; and

(3) The buyer, pursuant to a written early occupancy agreement between the buyer and seller, occupies the dwelling; and

(4) The sales transaction is completed or cancelled in writing within 120 days from the date of the written early occupancy agreement;

(e) Any licensed dwelling, rental unit or rooming house lawfully existing in the protection zone on July 19, 2008, may continue, even though such use does not conform to the provisions of this Chapter;

(f) If a rental license lapses as a result of the failure to comply with Section 29A-29, the license may be administratively reissued without regard to the provisions of paragraphs (a) and (b) of this Section if within 60 days of the expiration of the license the owner complies with Section 29A-29;

(g) If a rental license lapses as a result of the failure to comply with Section 29A-29, the owner fails to comply with paragraph (f) of this Section, and the provisions of paragraphs (a) and (b) prohibit issuance of a license, the owner may appeal pursuant to Section 29A-34. The building appeal board may authorize issuance of a license without regard to the provisions of paragraphs (a) or (b) of this Section if the owner demonstrates by clear and convincing evidence the existence of good cause for the failure to comply with Section 29A-29. For purposes of this provision, good cause shall be defined as circumstances beyond the control of the owner which made compliance with Section 29A-29 impossible;

(h) The building appeal board may grant a variance from the provisions of paragraphs (a) and (b) of this Section where a hardship exists. For purposes of this Section, a hardship exists when it can be demonstrated by clear and convincing evidence that the property no longer retains a reasonable economic value as an owner occupied dwelling and the ability to rent the property is necessary in order to retain a reasonable economic use.

Section 3. That this ordinance shall expire and be of no force and effect after midnight on June 30, 2012.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 13, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Gilbert, Stauber and President Reinert -- 6

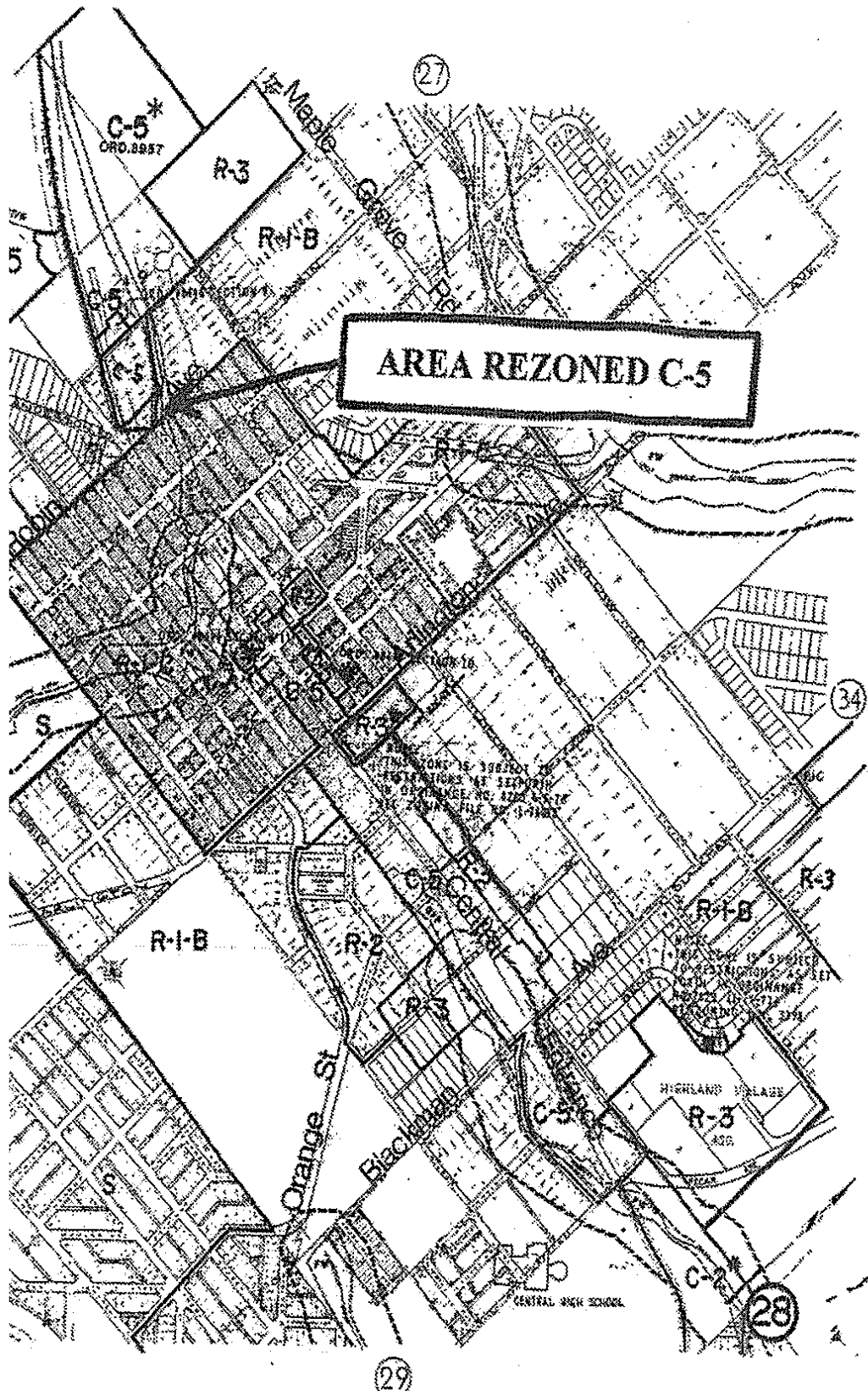
PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Nays: Councilors Fosle, Gardner and Krause -- 3

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 9, 2008
Approved June 9, 2008
DON NESS, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Thursday, June 19, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0619-01 Minnesota state auditor audit report for the entertainment and convention center authority for the years ended December 31, 2007 and 2006. -- Received

08-0619-20 Brandon Hall communication regarding proposed ordinance to establish the authorized parking areas on a residential lot and creating a variance from such regulation (08-048-O). -- Received

08-0619-17 The following communications regarding budget priorities and policies setting the 2008 budget repair strategy (08-0401R): (a) Katie Peterson; (b) Brian Ronstrom. -- Received

08-0619-16 The following communications regarding issuance of a C-5 plan approval to the Target Store located at 1902 Miller Trunk Highway (08-0393R and 08-0394R): (a) Minnesota department of transportation; (b) Target Corporation, by Westwood Professional Services. -- Received

08-0619-02 The following communications regarding proposed ordinance pertaining to improvements in the wastewater collection system (08-049-O): (a) Nicholas Brown; (b) Janet Draper; (c) Dave Flemming; (d) Duane Forbort; (e) Greg Guerrero; (f) Jeanne Koneczny; (g) Glen Kush; (h) Richard Paulson; (i) Jim Peterson; (j) Greg Rutkowski. -- Received

08-0619-18 The following communications regarding proposed policy to refer city matters related to the ISD No. 709 red plan to the voters by advisory referendum (08-0400R): (a) Brenda Anderson; (b) Kathy Bray; (c) Lawrence and Lorna Burda; (d) Melissa Derner; (e) Robin Downs; (f) Janet Draper; (g) Troy Erie; (h) Mary Jane Evans; (i) Shirley Evensen; (j) Jeff Funk; (k) Gary Glass; (l) Paul Goossens; (m) Jean Gorney; (n) Paula Hall; (o) Karen Heisick; (p) Mary Jackson; (q) Gaynelle Johnson; (r) Art Johnston; (s) Cindy Kerr; (t) Jack Kuriger; (u) Susan Lane; (v) Nick Lansing; (w) Kimberly LeDoux; (x) Trina LeGarde; (y) Judith Long; (z) Grace Miller; (aa) Arnelle and Larry Monson; (bb) Grant Odegard; (cc) Valerie and Bob Ouellette; (dd) Richard Paulson; (ee) Alan Peterson; (ff) Gina Pfingsten; (gg) John Powers; (hh) Brian Ronstrom; (ii) Greg Sandbulte; (jj) Chris Stemper; (kk) Barbara Walcome; (ll) Harry Welty; (mm) Kent Worley. -- Received

08-0619-19 The following communications regarding proposed vacation of alleyways within a city block bounded by Arrowhead Road, Humes Avenue, Cleveland Street and Kenwood Avenue (08-0399R): (a) Cheryl and Donald Behling; (b) Barbara Breimon; (c) Barbara Brooks; (d) Ruth Lax; (e) S. Nelson; (f) Liz Pearson; (g) John Sorensen (supported by 20 signatures); (h) Marlene and Larry Zwak. -- Received

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REPORTS FROM OTHER OFFICERS

08-0619-03 Assessor letter of sufficiency of petition to vacate streets, alley and easement in 72nd, 73rd, 74th and 75th avenues East; Oakley and Avondale streets, Lakeview Manor Plat

and Chase Avenue (north of Highway 61), Hoover and Hollister streets (east of 72nd Avenue East), within the new Plat of Eastridge. -- Received

08-0619-04 Clerk application to the Minnesota gambling control board for exemption from lawful gambling license (bingo and raffles) from St. Margaret Mary Church on September 14, 2008. -- Received

08-0619-05 Purchasing agent emergency order awarded to WW Goetsch Associates for two Fairbanks Morse pumps for backup purposes in the amount of \$55,110.01. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

08-0619-06 American Indian commission minutes of: (a) April 21; (b) April 28, 2008, meetings. -- Received

08-0619-07 Commission on disabilities minutes of May 7, 2008, meeting. -- Received

08-0619-08 Duluth human rights commission minutes of May 14, 2008, meeting. -- Received

08-0619-09 Duluth public arts commission minutes of May 19, 2008, meeting. -- Received

08-0619-10 Duluth/North Shore Sanitary District minutes of April 9, 2008, meeting. -- Received

08-0619-11 Entertainment and convention center authority minutes of May 16, 2008, meeting. -- Received

08-0619-12 Housing and redevelopment authority minutes of: (a) March 25; (b) April 29, 2008, meetings. -- Received

08-0619-13 Parking commission minutes of June 10, 2008, meeting. -- Received

08-0619-14 Parks and recreation commission minutes of May 14, 2008, meeting. -- Received

08-0619-15 Planning commission minutes of May 13, 2008, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Lynn Eng responded to correspondence that the council had received from Neighborhood Campus regarding her rental property and replied that she has worked hard to have her tenants respect the neighbors and keep a positive relationship with single family home neighbors.

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MOTIONS AND RESOLUTIONS

The following entitled resolution was read for the first time, pursuant to City Council Standing Rule 15:

BY PRESIDENT REINERT

08-0405 - RESOLUTION AMENDING THE STANDING RULES - AGENDA MEETINGS.

- - -

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 2008

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

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 rental equipment, including rental skis, rental boots and rental poles.

RESOLVED, that the city council hereby approves the authority entering into a lease purchase agreement with Beacon Bank in the approximate amount of \$317,500 for the purpose of replacing rental equipment.

Resolution 08-0371 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to withdraw all available funds from the basic business services account and the business market rate savings account which are held at Wells Fargo Bank NA in the name of Soft Center Duluth and to close said accounts.

RESOLVED FURTHER, that said funds shall be deposited in the Capital Equipment Fund 250 and shall be used to defray a portion of the cost of acquiring mapping integration capabilities within the city's utility billing, building inspection and permitting, code enforcement and business licensing applications.

Resolution 08-0377 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

- - -

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 31, August 1, 2 and 3, 2008, with Dawn Pearce, manager.

Northland Vietnam Veterans Association, Bayfront Park, for August 7, 8, 9 and 10, 2008, with Kathy Camps, manager.

Minnesota Continuing Legal Education, Bayfront Park, for August 4, 2008, with Lisa Tischler, manager.

Bong Heritage Center (Duluth Airshow), 4701 Grinden Avenue, for July 19-20, 2008, with Ryan Kern, manager.

Duluth-Superior GLBT Pride, Inc. (Duluth-Superior GLBT Pride Festival), Bayfront Park, for August 30, 2008, with Carolyn Reisberg, manager.

Resolution 08-0365 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating liquor license and additional bar license for the period ending August 31, 2008, subject to departmental approvals and the payment of sales and property taxes:

Black Water At Greysolon, LLC (Black Water at Greysolon), 231 East Superior Street, with Bryan Flaherty, president and 100 percent stockholder.

Resolution 08-0366 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

- - -

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, 2009, subject to departmental approvals and the payment of sales and property taxes:

Khoe Tran and Nhanh Dinh (Saigon Café), 2224 Mt. Shadow Drive.

Resolution 08-0368 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the Duluth human rights commission of Dan Kitzberger, for a term expiring on April 20, 2009, replacing Maria Krynicki who resigned, is confirmed.

Resolution 08-0364 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

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RESOLVED, that the proposed amendments to the specifications for the civil service classification of grant coordinator, which were approved by the civil service board on June 3, 2008, and which are filed with the city clerk as Public Document No. 08-0619-21, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 131.

Resolution 08-0389 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of property manager, which were approved by the civil service board on June 3, 2008, and which are filed with the city clerk as Public Document No. 08-0619-22, are approved. This classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees and compensated at pay ranges 1125 - 1135.

Resolution 08-0390 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

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RESOLVED, that the Duluth City Council hereby approves laws of Minnesota 2008, Chapter 366, Article 5, Section 31, extending the time for activities to be undertaken in tax increment financing (TIF) district Nos. 20 and 21 from five years from the date of certification of

the TIF district as required by Minnesota Statutes Section 469.1763 to ten years from the date of certification of the TIF district.

Resolution 08-0374 was unanimously adopted.
Approved June 19, 2008
DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city clerk requesting the vacation of Birch Street between Garfield Avenue Alley and Cox Avenue adjacent to Lot 81, Block 44, Rices Point, and Lot 2, First Sub-Division of Rices Point; and

(b) 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 the city planning commission found that the petitioned street is useless, based on the findings that: the proposed vacation does not provide access to other properties, there are no plans to improve the street and there are no utilities within the street; and

(c) The planning commission, at its June 10, 2008, regular meeting, did approve, unanimously, vacating the street petitioned for vacation; and

(d) That the city council of the city of Duluth approves the vacation of the following and as more particularly described on Public Document No. 08-0619-23: That part of Birch Street lying between the east line of Garfield Avenue Alley and the west line of Cox Avenue adjacent to Lot 81, Block 44, Rices Point, and Lot 2, First Sub-Division of Rices Point; and

(e) That the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the street to be vacated.

Resolution 08-0398 was unanimously adopted.
Approved June 19, 2008
DON NESS, Mayor

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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 and Public Document No. 08-0619-24, with Elizabeth Mathias, 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 1, 2008, through June 30, 2009, at a cost not to exceed \$20,800; payment to be made from Fund 268.

Resolution 08-0369 was unanimously adopted.
Approved June 19, 2008
DON NESS, Mayor

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The city council finds as follows:

(a) That the Minnesota department of transportation (Mn/DOT) and the city of Duluth did enter into Agreement No. 91950 dated February 29, 2008, providing payment for the city's share of the project through reconstruction of adjacent city streets;

(b) After Agreement No. 91950 was fully executed, the federal cost share for the traffic signal construction was reduced from 90 percent to 80 percent cost participation, bids were

rejected for the first advertisement, and portions of the plans and specifications were revised due to the incorporation of addenda and plan revisions;

(c) Agreement No. 91950 should be amended to reflect the revised federal cost participation for the traffic signal construction and for proportionate costs for the revisions of the plans and specifications.

RESOLVED, that the proper city officials are hereby authorized to enter into Amendment No. 1 to Agreement No. 91950 with the Minnesota department of transportation to increase payment by \$44,115.01 for a new total estimated cost of \$1,477,086.69 for the city's share of the costs associated with the reconstruction of Miller Trunk Highway, payable from Permanent Improvement Fund 0411, Department/Agency 035, Object 5530. These monies would be reimbursed from the municipal state aid construction account and the various appropriate utility funds; City Project No. 0391TR, State Aid Project No. 118-030-009 and state project nos. 118-201-01, 118-178-05, 118-196-03, 118-202-01, 69-606-17 and 6915-129 (TH53-106).

Resolution 08-0370 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to contract with ABM Equipment and Supply, LLC, for the purchase of a JAJ Series sewer easement machine with accessories for public works and utilities in the amount of \$26,888 plus \$1,747.72 sales tax for a total combined amount of \$28,635.72, terms net 30, payable as follows:

(a) \$21,476.79 from Sewer Fund 530, Department/Agency 500, Organization 1905, Object 5580;

(b) \$7,158.93 from Stormwater Fund 535, Department/Agency 500, Organization 1905, Object 5580.

Resolution 08-0372 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

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RESOLVED, that calculation of steam capacity charges as described in Public Document No. 06-0626-21 approved pursuant to Resolution No. 06-0351 is hereby amended by the rate calculation on file in the office of the city clerk as Public Document No. 08-0619-25, effective for steam provided to customers on and after January 1, 2009.

Resolution 08-0376 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Nels Nelson & Sons, Inc., for construction of 2008 watermain replacement in Congdon Boulevard and Avondale Street for the engineering division for the apparent low bid of \$445,959.77, payable out of Water Fund 0510, Department/Agency 500, Organization 1905, Object 5536, City Project No. 0680WA.

Resolution 08-0379 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED, that the city council hereby requests the Charter commission to recommend an amendment of Chapter IX of the City Charter, which proposed ordinance is on file in the office of the city clerk as Public Document No. 08-0619-26.

Resolution 08-0395 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

- - -

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 Fifth and Sixth avenues West on June 26, 2008, from 4:00 p.m. to 8:00 p.m., between First and Second avenues West on July 10, 2008, from 4:00 p.m. to 8:00 p.m., between Second and Third avenues West on July 24, 2008, from 4:00 p.m. to 8:00 p.m., and between Fifth and Sixth avenues East on August 21, 2008, from 4:00 p.m. to 8:00 p.m., and on Morse Street between Lake Avenue South and Canal Park Drive on August 7, 2008, from 4:00 p.m. to 8:00 p.m. in conjunction with Rock the Block events, on First Street between First and Second avenues West and between Third and Fourth avenues West on July 11, 2008, from 6:00 p.m. to 12:00 a.m., and on Superior Street between Third and Fourth avenues East on July 12, 2008, 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 08-0367 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement for parking services with the Duluth Police Explorer Post 244 (Post 244) and the Duluth economic development authority (DEDA) for parking on DEDA-owned and city-owned lots west of slip two and adjacent to Bayfront during the Bayfront Blues Festival, said agreement to be substantially in the form of that on file in the office of the city clerk as Public Document No. 08-0619-27, 75 percent of the net proceeds to be retained by Post 244; 25 percent of the net proceeds from Lot A to be paid to the city and deposited into Fund 237-015-4623; and 25 percent of the net proceeds from Lots C and D to be paid to DEDA.

Resolution 08-0375 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

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The following resolutions were also considered:

RESOLVED, that the proper city officials are authorized to enter into an amendment to the agreement regarding special events held at Bayfront Festival Park, substantially in the form of that on file in the office of the City Clerk as Public Document No. 08-0619-28, with Secret Service Entertainment, LLC, (contractor), the Duluth economic development authority (DEDA) and Lake

Superior Center authority (LSCA) which amendment clarifies certain issues regarding parking on the city-owned and DEDA-owned lots near Bayfront.

Resolution 08-0388 was adopted upon the following vote:

Yeas: Councilors Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Anderson -- 1

Approved June 19, 2008

DON NESS, Mayor

- - -

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 approximately \$40,665,000 general obligation DECC improvement bonds, Series 2008A (the bonds), pursuant to Ordinance No. 9907 adopted May 12, 2008, Minnesota Statutes, Chapter 475, Minnesota Laws 1974, Chapter 130, and the Home Rule Charter of the city, for the purpose of providing the local match for a state of Minnesota grant for improvements to the Duluth Entertainment Convention Center;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 08-0619-29. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider 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 sale 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 a subsequent resolution of this city council.

Resolution 08-0407 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

- - -

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 approximately \$1,475,000 general obligation Aerial Lift Bridge improvement bonds, Series 2008B (the bonds), pursuant to Ordinance No. 9886 adopted February 11, 2008, Minnesota Statutes, Chapter 475, Minnesota Laws 1974, Chapter 130 and the Home Rule Charter of the city, for the purpose of providing the local match for a state of Minnesota grant for the restoration of the Aerial Lift Bridge;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 08-0619-30. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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 sale 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 a subsequent resolution of this city council.

Resolution 08-0408 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause and President Reinert -- 8

Nays: Councilor Stauber -- 1

Approved June 19, 2008

DON NESS, Mayor

- - -

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 approximately \$2,320,000 general obligation street improvement bonds, Series 2008C (the bonds), for the purpose of financing the 2008 street improvement program, pursuant to Minnesota Statutes, Chapter 475, and the City Charter;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 08-0619-31. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider 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 sale 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 a subsequent resolution of this city council.

Resolution 08-0409 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause and President Reinert -- 8

Nays: Councilor Stauber -- 1

Approved June 19, 2008

DON NESS, Mayor

- - -

Resolutions 08-0204 and 08-0381, approving and denying, respectively, the permanent expansion of the on sale intoxicating liquor license of J&J Miller, Inc. (Copasetic Lounge), 323 East Central Entrance; resolutions 08-0382 and 08-0383, approving and denying, respectively, the permanent expansion of the on sale intoxicating liquor license of Player's Grandstand, Inc. (Player's Sports Bar), 4024 Grand Avenue; resolutions 08-0384 and 08-0385, approving and denying, respectively, the permanent expansion of the on sale intoxicating liquor license of Lucky

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Break, Inc. (Horseshoe Billiards), 2415 West Superior Street, were introduced by Councilor Krause.

Councilor Krause moved to table the resolutions for a July 21 committee meeting, which motion was seconded and unanimously carried.

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Resolution 08-0386, approving the additional bar license of the on sale intoxicating liquor license of Norshor Experience, Inc. (Norshor Experience), 211 East Superior Street, was introduced by Councilor Krause.

Resolution 08-0386 failed unanimously (Public Document No. 08-0619-32).

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby denies the additional bar license of the following on sale intoxicating liquor license for the period ending August 31, 2008.

Norshor Experience, Inc. (Norshor Experience), 211 East Superior Street.

Resolution 08-0387 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

- - -

Resolution 08-0400, by Councilor Krause, declaring policy to refer city matters related to the ISD No. 709 red plan to the voters by advisory referendum, was introduced for discussion.

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

Gordon Downs urged the councilors to be more civil on the subject of the long range facility plan (LRFP).

Brenda Anderson stated that whether right or wrong, the decision of the school board will impact all of Duluth and will send the parents to schools outside the district, and requested the council to become involved with this decision as the citizens have been ignored by the school board.

Brian Ronstrom explained his house will be the parking lot for the new East High School but his property has been recognized as a national wildlife refuge site and questioned why an environment assessment worksheet was not needed.

Robin Downs expressed her support for the LRFP and reviewed that the school plan is already half bonded for and better schools will be an attraction for future businesses coming to Duluth.

Mimi Larson stated that the Move Forward Duluth organization does nothing to move Duluth ahead and only keeps the community divisive on the issue, and the old facilities that are in need of repair should be fixed by using the tax dollars wisely.

Karen Heisick questioned how the school district and a private company can be involved in a lawsuit against the city when they are not being sued.

Harry Welty stated that the school district should allow the citizens to vote on such a large project with a large economic impact.

Marcia Stromgren expressed her frustration that her township business tax increased by 239 percent while never being able to vote on the subject.

Councilor Krause stated that the city will have to deal with the side issues of the LRFP and, with the taxes going higher, it will force people to send their children to schools outside ISD No. 709 and they will eventually leave Duluth to live in that community.

Councilor Gardner stated she has serious concerns about the red plan as it relates to her third district constituents, but does not think this resolution is a practical solution and will not do anything to stop the LRFP.

Resolution 08-0400 failed upon the following vote (Public Document No. 08-0619-33):

Yeas: Councilors Krause and Stauber -- 2

Nays: Councilors Anderson, Cuneo, Fedora, Gardner, Gilbert and President Reinert -- 6

Abstention: Councilor Fosle -- 1

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RESOLVED, subject to the approval of the city council, and pending extensive background investigation results, the mayor shall appoint Gunnar Johnson to the position of city attorney.

NOW, THEREFORE, BE IT RESOLVED, that the appointment of Gunnar Johnson to the position of city attorney, contingent upon satisfactory background investigation, is hereby confirmed.

Resolution 08-0411 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

- - -

Resolutions 08-0391 and 08-0392, granting and denying, respectively, a low density planned development special use permit to White Pine Development for Eastridge Estates, a cluster housing development of 23 homes to be located on the upper side of the Highway 61 expressway northeast of Lester Park Golf Course, were introduced by Councilor Stauber for discussion.

Councilor Fosle stated that putting in septic systems in new housing developments instead of hooking up to the city sewer is going backwards, and this development is high on a hill which will end up flowing downhill to the lake.

President Reinert stated he could not support septic systems for this development and supports the staff's recommendation that the septic system not be allowed.

Resolution 08-0391 was adopted as follows:

RESOLVED, that the city council finds the following:

(a) White Pine Development has submitted to the city council a special use permit request for a low density planned development on 144 acres of property legally described as follows:

(1) Those parts of Section 33, Township 51 North, Range 13 West of the Fourth Principal Meridian in the city of Duluth, county of St. Louis, state of Minnesota, summarized and described as follows: The NE 1/4 of the SE 1/4; the S 1/2 of the SE 1/4 of the NE 1/4; the Plat of Lakeview Manor, except Lot 28 of Block 3 all in the N 1/2 of the SE 1/4 of the NE 1/4; and

(2) Those parts of Section 34, Township 51 North, Range 13 West of the Fourth Principal Meridian in the city of Duluth, county of St. Louis, state of Minnesota, summarized and described as follows: The SW 1/4 of the NW 1/4 and the SE 1/4 of the NW 1/4 lying north of the northerly right-of-way line of State Trunk Highway No. 61; that part of the following listed lots lying north of the northerly right-of-way line of State Trunk Highway No. 61 of Block 1 in the Plat of Brighton Gardens, First Division: Lots numbered 3 through 12, 27 through 31, and Lot 33; and

(b) Said permit application was duly referred to the city planning commission for a study, report and public hearing held during the regular meeting on June 10, 2008, and the commission has subsequently reported its recommendation of conditional approval to the city council; and

(c) The applicant's compliance with conditions set out in this permitting resolution will remedy any shortcomings identified by the city planning commission's findings of inadequacies in the submitted documents, and that compliance with the conditions contained herein will adequately protect the comprehensive plan and conserve and protect property values in the neighborhood and comply with City Code Section 50-32; and

(d) That a special use permit is hereby granted to white pine development to construct eastridge estates, a cluster housing development of 23 homes on 2.6-5.7 acre lots with septic systems and 53 acres of common open space on the above described property, subject to the following terms and conditions:

(1) The final plat shall comply with the preliminary plat as approved by the city planning commission on April 8, 2008, including conditions of approval; and

(2) That prior to this special use permit being in effect, the city council enact the amendment to Section 50-36.1(i) in substantially the form of that before the council as 08-040-O; and

(3) That the applicant provide the necessary documents and secure the necessary approvals as required in the amended Section 50-36.1(i).

Resolution 08-0391 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Gardner, Gilbert and Stauber -- 6

Nays: Councilors Fosle, Krause and President Reinert -- 3

Approved June 19, 2008

DON NESS, Mayor

- - -

Resolution 08-0392 failed upon the following vote (Public Document No. 08-0619-34):

Yeas: Councilors Fosle, Krause and President Reinert -- 3

Nays: Councilors Anderson, Cuneo, Fedora, Gardner, Gilbert and Stauber -- 6

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Resolutions 08-0393 and 08-0394, issuing and denying, respectively, a C-5 plan approval to Target Corporation for relocation of driveways and pole sign, reconfiguration of the parking lot, site lighting and parking lot landscaping/screening at the Target store located at 1902 Miller Trunk Highway, were introduced by Councilor Stauber for discussion.

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

Carol Lansing, representing Target Corporation, reviewed that Target is making changes to their site in response to the Miller Trunk Highway construction project and have been working with the city, county and state for access to their parking lot. She requested the council eliminate the condition of approval that was added by the planning commission that Target add stormwater treatment on site, as more information that has been brought forward by Mn/DOT that they will be promoting stormwater treatment and Miller Creek improvement that the planning commission is not aware of.

Councilor Stauber moved to amend Resolution 08-0393 by deleting subparagraph (d)(2) on page 4 relating to stormwater treatment, which motion was seconded and unanimously carried.

Resolution 08-0393, as amended, was adopted as follows:

RESOLVED, that the city council finds the following:

(a) Target Corporation has submitted to the city council a request for C-5 plan approval, in accordance with Section 50-140(a) of the City Code, for relocation of driveways and pole sign,

parking lot redesign, site lighting changes, and parking lot landscaping/screening on property located at 1902 Miller Trunk Highway and legally described as:

(1) SE1/4 of SW1/4 Section 18 Township 50 North Range 14 West except those parts thereof described as follows, to-wit:

(A) That part thereof lying northerly and easterly of the right-of-way of U.S. Highway No. 53 as now laid out and in use;

(B) That portion of the SE1/4 of SW1/4 of Section 18 Township 50 North, Range 14 West of the Fourth Principal Meridian, being a strip of land 40.00 feet wide and lying 20.00 feet on each side of the following described line EXCEPT the last 150.00 feet of said described line being a strip of land 25 feet wide and lying 20.00 feet southerly and 5.00 feet northerly of said described line: Commencing at the South quarter corner of said Section 18; thence south 87 degrees 50 minutes 15 seconds west along the southerly line of Section 18 a distance of 350.00 feet to the point of beginning of said strip of land; thence north 02 degrees 40 minutes 15 seconds west a distance of 260.89 feet; thence along a curve to the left, with a long chord of 111.66 feet bearing north 26 degrees 37 minutes 37 seconds west a radius of 137.50 feet and a central angle of 47 degrees 54 minutes 45 seconds west, an arc distance of 114.98 feet to a point; thence north 50 degrees 35 minutes 00 seconds west, being parallel with U.S. Highway No. 53, a distance of 694.79 feet to the point of termination, subject to highway or road easement the South 33.00 feet thereof; and

(2) That part of the SE1/4 of SW1/4 of Section 18, Township 50 North, Range 14 West of the Fourth Principal Meridian more particularly described as follows: Commencing at the south quarter corner of said Section 18; thence northerly along the north-south quarter line a distance of 33.00 feet to a point; thence deflect 89 degrees 29 minutes 30 seconds to the left in a westerly direction distance of 33.00 feet to a point on the northerly right-of-way line of the Maple Grove Road, said point being the point of beginning of the parcel of land herein described; thence continuing westerly along said right-of-way line and being parallel with the southerly line of said Section 18 a distance of 297.00 feet to a point thence deflect 89 degrees 29 minutes 30 seconds to the right in a northerly direction a distance of 298.05 feet to a point on the southerly right-of-way line of U.S. Highway 53; thence deflect 132 degrees 05 minutes 15 seconds to the right in a southeasterly direction along said right-of-way line a distance of 400.19 feet to a point on the westerly right-of-way line of Decker Road; thence deflect 47 degrees 54 minutes 45 seconds to the right in a southerly direction along said right-of-way line a distance of 32.45 feet to the point of beginning; and

(3) That portion of the SE1/4 of the SW1/4, which lies easterly and northeasterly of a line run parallel with and distant 30 feet westerly and southwesterly of Line 1 described below:

Line 1. Beginning at a point on the south line of said Section 18 distant 392.85 feet west of the south quarter corner thereof; thence run northerly at an angle 90 degrees 24 minutes 50 seconds from said south section line (measured west to north) for 176.02 feet; thence deflect to the left on a tangential curve having a radius of 272.84 feet and a delta angle of 48 degrees 43 minutes 09 seconds for 232.00 feet; thence on a tangent to said curve for 572.15 feet; thence deflect to the right on a tangential curve having a radius of 572.96 feet and a delta angle of 06 degrees 41 minutes 45 seconds for 66.95 feet; thence on tangent to said curve for 147.40 feet; thence deflect to the left on a tangential curve having a radius of 577.96 feet and a delta angle of 06 degrees 41 minutes 43 seconds for 66.95 feet; thence on tangent to said curve for 370.00 feet and there terminating; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

(b) Said permit application was duly referred to the city planning commission for a study, report and public hearing at their June 10, 2008, regular meeting, and the city planning commission has subsequently reported its conditional approval to the city council; and

(c) The approval was made because of the city planning commission's findings that compliance with the appropriate standards of the ordinance will be met through the conditions of approval; and

(d) Approval is granted to target corporation for amendment of a C-5 plan, including relocation of driveways and pole sign, parking lot redesign, site lighting changes and parking lot landscaping/screening at their store at 1902 Miller Trunk Highway, subject to the following conditions:

(1) The project be constructed and maintained in accordance with documents submitted by Westwood Professional Services titled "Preliminary Plans for Site Modification Plans for Target - Duluth" and as identified as Public Document No. 08-0619-43:

(A) Sheet 3 of 11- removals plan dated April 29, 2008, and received on June 6, 2008;

(B) Sheet 4 of 11 - proposed overlay dated April 29, 2008, and received June 6, 2008;

(C) Sheet 5 of 11 - site plan dated April 29, 2008, and received on June 6, 2008, subject to approval of a height variance from the board of zoning appeals or submitting of a sign that meets the Sign Code requirements;

(D) Sheet 6 of 11 - utility plan dated April 29, 2008, and received on June 6, 2008;

(E) Sheet 7 of 11 - grading, drainage and erosion control plan dated April 29, 2008, and received on June 6, 2008;

(F) Sheet 8 of 11 - landscape plan dated April 29, 2008, and received on June 6, 2008, subject to the approval by the right-of-way authorities for placement of landscaping in the right-of-way;

(G) Sheet 9 of 11 - irrigation plan dated April 29, 2008, and received on June 6, 2008;

(H) Sheet 10 of 11 - details dated April 29, 2008, and received on June 6, 2008;

(I) Sheet SL1 - photometric plan dated April 28, 2008, and received on June 6, 2008; and

(J) Preliminary stormwater management report for Target - Duluth including existing and proposed drainage area maps;

(2) The applicant gain approval of the right of way authorities for the sidewalk on Maple Grove Road, driveway configurations on Mall Drive and Maple Grove Road and that the applicant submit revised plan for C-5 approval, if necessary; and

(3) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the director of planning and development without further planning commission or city council action; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50, Article XXIII;

(e) Approval is also granted for the following variances, which are authorized by Section 50-143:

(1) To construct 610 parking stalls rather than the required 632 stalls; and

(2) To reduce the parking lot landscape setbacks for Mall Drive, Maple Grove Road, and Burning Tree Road as shown on the plans listed in Section (d) of this resolution, subject to approval by the right-of-way authorities for placement of landscaping in the right-of-way.

Resolution 08-0393, as amended, was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

- - -

Resolution 08-0394 failed unanimously (Public Document No. 08-0619-35).

- - -

Resolution 08-0399, vacating alleyways within a city block bounded by Arrowhead Road, Humes Avenue, Cleveland Street and Kenwood Avenue, was introduced by Councilor Stauber for discussion.

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

Barb Brooks, Cheryl Behling, Barb Breiman, Diane Schubert, George Trendie, John Sorenson, Marlene Zwak and Pat Trachte spoke against the vacation for the following reasons: this plan was submitted four years ago and failed; this is too high of a traffic area for a Walgreens; it would deteriorate the neighborhood; it would create more problems; the current proposal is too big of a project for the size of the lot they are looking at; the only entrance/exit will be from Cleveland Street; lights from the building would be shining into the peoples' homes; property values would decrease; it would be irresponsible for this development to happen and the planning commission only looked at the vacation of the alley and did not look at the larger issue.

Stuart Schaefer stated that the development company is buying the land and the only thing they are looking at is vacating the property, and stated that the site plan is not done. He continued by saying that there is much misinformation on the project and they are not trying to create an unsafe environment for this project and steps would be taken to keep the integrity and character of the neighborhood.

Councilors Stauber and Gilbert voiced concern that the property was rezoned from residential to commercial for a credit union to be built, and for them to sell the property for a new development is not good for the neighborhood.

Resolution 08-0399 failed unanimously (Public Document No. 08-0619-36).

- - -

The city council finds the following:

(a) Chris Priley of 4214 Enterprise Circle, has submitted to the city council, a request to amend a special use permit approved by the city council on 11/13/2001 (Resolution 01-0793), to make improvements to At Home Living, a residential care facility, located at 1010 Brainerd Avenue, property legally described as follows:

Lots 17, 19 and 21, Block 2, Superior View Addition;

(b) The amendment consists primarily of building a two-story addition, deck, porch and vehicular turn-around area adjoining the existing driveway;

(c) Said permit application was duly referred to the city planning commission for a study, report and public hearing held during the regular meeting on Tuesday, May 13, 2008, at which time it was tabled, and after applicant submitted plan revisions, was considered during the planning commission's regular meeting of June 10, 2008, and subsequently reported a recommendation of conditional approval per revised plans submitted on June 3, 2008, to city planning office, to the city council;

(d) The applicant's compliance with conditions set out in this permitting resolution will adequately protect the comprehensive plan and conserve and protect property values in the neighborhood and comply with City Code Section 50-32 (reference Planning Commission File No. 07136).

NOW, THEREFORE, BE IT RESOLVED, that a special use permit amendment is hereby granted to Chris Priley, to build a two-story addition, deck, porch and vehicular turn-around area adjoining existing driveway at At Home Living, a residential care facility, located at 1010 Brainerd Avenue; and

(a) That the project be limited to, developed, and maintained according to plans entitled, "Chris Priley Project, Duluth, MN, drawn by Deborah Lea Krebs, 6-01-08, and received in Duluth city planning office June 3, 2008, and identified as Public Document No. 08-0619-37;

(b) That the project secure necessary building, grading and any other appropriate permits from the city.

Resolution 08-0402 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

- - -

Resolution 08-0403, denying a request to amend a special use permit to make improvements to at home living, a residential care facility located at 1010 Brainerd Avenue (Chris Priley), was introduced by Councilor Stauber.

Resolution 08-0403 failed unanimously (Public Document No. 08-0619-38).

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Resolution 08-0404, denying a request to amend Chapter 50 of the Duluth City Code, 1959, as amended, Zoning District Map No. 28 as contained in the Appendix to Chapter 50, to provide for the reclassification from R-1-c, one family residential, to C-5, planned commercial development, property located at 114 West Myrtle Street, between Basswood Avenue and Hugo Avenue (Steve Lindberg), was introduced by Councilor Stauber.

Councilor Stauber moved to table the resolution for consideration with Ordinance 08-050 on July 21, which motion was seconded and unanimously carried.

- - -

Resolution 08-0401, supporting budget priorities and policies setting the 2008 budget repair strategy; Resolution 08-0412, by councilors Gilbert, Anderson, Gardner and Krause, requesting action on the budget; Resolution 08-0413, by Councilor Gardner, amending Resolution 08-0401 pertaining to human rights office; and Resolution 08-0406, authorizing the city to be a sponsor of the 2008 Northshore Inline Marathon at a cost to the city of \$15,000, were introduced for discussion.

Mayor Ness made an amendment to Resolution 08-0401, in subparagraph (b) of the second paragraph to delete the word "Close" and insert the phrase "Eliminate general fund support to" in hopes that the human rights office would be able to maintain its operation from outside funding sources.

The rules were suspended upon a unanimous vote to hear from speakers on Resolution 08-0401.

Beth Olson spoke on behalf of victims of sexual violence and urged the council to increase the funding strength of the police department and add one additional investigator in the family crimes unit.

David Thickers spoke on behalf of the John Beargrease Marathon and reviewed that the race is the second largest in the country which fills the hotels in Duluth and brings national coverage to Duluth. He explained that the support from the city's police department and public work and utilities department is crucial in keeping the starting point of the race in the city.

Mayor Ness stated that with this resolution he is hoping to get the support of the council on the broad budget strategies that will each require a different implementation process in the upcoming months.

The amendment by Mayor Ness was seconded and unanimously carried.

Resolution 08-0401, as amended, was adopted as follows:

The city council finds as follows:

(a) The city administration and council wish to establish a clear set of priorities and policies with respect to budget initiatives which will repair the city's 2008 general fund budget, and frame the guiding principles and strategies for the development of the 2009 and 2010 budgets; and

(b) The city administration has reviewed over 150 budget revenue enhancements and cost reduction strategies; and

(c) The city administration and council have devoted meeting time and discussion to the city budget priorities; and

(d) The city administration and council choose to implement budget initiatives which protect the vital interests of the community by maintaining the city's core services to our citizens.

NOW, THEREFORE, BE IT RESOLVED, that the council supports the development of the following budget strategies which will require further council action over the course of time:

(a) Contract with the zoological society to operate the Lake Superior Zoo;

(b) Eliminate general fund support to the human rights office;

(c) Combine the departments of library and parks and recreation;

(d) Reform civil service;

(e) Recover all general fund costs related to support of the Duluth economic development authority;

(f) Recover full cost of providing support, services and/or space to PACT, sister cities, public arts, community development and workforce development;

(g) Eliminate or reduce tourism tax subsidies to the Great Lakes Aquarium, public arts, sister cities, Grandma's Marathon, Inline Marathon and the Beargrease;

(h) Implement city administered parking ticket processing program;

(i) Implement city administrative citation system;

(j) Establish special events fees;

(k) Increase parking meter rates and locations;

(l) Establish fire alarm permit, plan review and inspection fee;

(m) Establish a false alarm fee to business for both police and fire response;

(n) Establish a nonresident fee charged for police and fire response to motor vehicle accidents;

(o) Establish a fee charged to homeowner's insurance for fire response;

(p) Add group homes to operational permits;

(q) Add educational, institutions, business/mercantile to operational permit program;

(r) Transfer inspections of 4+ rental units to fire prevention;

(s) Increase library fines to patrons.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

FURTHER RESOLVED, the city administration will prepare and present for council consideration separate resolutions and ordinances as required to implement these budget repair strategies.

Resolution 08-0401, as amended, was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

- - -

Councilor Gardner moved the withdraw Resolution 08-0413 from the agenda, which motion was seconded and unanimously carried.

- - -

Regarding Resolution 08-0412, Mayor Ness stated that while he understands the reason for the resolution by the councilors, his reason to take a fire rig out of service is to reduce the overtime costs and making those employees available to fill in for those on vacation or on a leave. He continued by saying that a delay in that decision for a month will have a significant impact on his budget strategies, and he is committed to work with the fire department and their ideas for efficiencies in the department.

Councilor Stauber stated that Mayor Ness is doing what he needs to make the budget balanced by the end of the year.

To questioning from Councilor Fosle, Chief Administrative Officer Potswald replied that only a fire truck will be out of service and no employees will be losing their jobs or losing their full time regular hours.

Resolution 08-0412 was adopted as follows:

BY COUNCILORS GILBERT, ANDERSON, GARDNER AND KRAUSE:

WHEREAS, the city can only find solutions to the budget crisis by working together; and

WHEREAS, the administration plans to take a Downtown fire rig out of service on July 1, 2008, to save approximately \$300,000 from the fire department's budget in 2008; and

WHEREAS, the council believes that if the administration works with the fire department that it can come up with a plan to balance the budget without the adverse impact on public and firefighter safety of taking a fire rig out of service.

NOW, THEREFORE, BE IT RESOLVED, that the council requests that the administration postpone plans to take the Downtown fire rig out of service until at least August 1, 2008, and work with the fire department to come up with an alternative plan to balance the budget which will have less impact on public and firefighter safety.

Resolution 08-0412 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause and President Reinert -- 8

Nays: Councilor Stauber -- 1

Approved June 19, 2008

DON NESS, Mayor

- - -

Resolution 08-0406 failed upon the following vote (Public Document No. 08-0619-40):

Yeas: Councilors Cuneo, Stauber and President Reinert -- 3

Nays: Councilors Anderson, Fedora, Fosle, Gardner, Gilbert and Krause -- 6

- - -

Resolution 08-0397, determining sewer connection fee - Vineyard Church, was introduced by Councilor Fosle for discussion.

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

Ben Folman, pastor of Vineyard Church, reviewed that the church has paid a \$18,000 sewer connection fee and they are asking for either a full refund or refund of a partial fee of \$9,100 because the church cannot afford the full assessment and the city did not follow the City Code when assessing the church.

Councilor Stauber moved to amend the resolution as follows:

(a) Amend subparagraph (d) of the resolution to read as follows:

“(d) Although the standard fee schedule set by the council is at \$90 per foot for the 200 feet, for a total of \$18,000, the council finds just evidence that would indicate the council will use the fee schedule when the construction actually occurred in 2002 and charge the previous rate of \$44.50 per foot for a total of \$8,900; and”

(b) Amend the last paragraph to read as follows:

“THEREFORE, BE IT RESOLVED, that, after appeal and hearing as provided for in City Code Section 43-56, the city council approves the amended amount of the connection fee and reverses the decision of the special assessment board. The total connection fee to be paid by Vineyard Church for service at 1533 West Arrowhead Road is the amount of \$8,900, which may be paid as set out in City Code Section 43-56,”

which motion was seconded and unanimously carried.

Resolution 08-0397, as amended, was adopted as follows:

The city council finds:

(a) Appellant Vineland Church applied for a sewer connection at its property at 1533 West Arrowhead Road; and

(b) The property is served by a sewer that was constructed by the city, but not assessed at that time; and

(c) Of the 300 feet of street frontage owned by the applicant, 100 feet has had the sewer paid for, so 200 feet remains to be paid by fees; and

(d) Although the standard fee schedule set by the council is at \$90 per foot for the 200 feet, for a total of \$18,000, the council finds just evidence that would indicate the council will use the fee schedule when the construction actually occurred in 2002 and charge the previous rate of \$44.50 per foot for a total of \$8,900; and

(e) The applicant appealed the amount determined to the city council, which heard the matter on June 9, 2008.

THEREFORE, BE IT RESOLVED, that, after appeal and hearing as provided for in City Code Section 43-56, the city council approves the amended amount of the connection fee and reverses the decision of the special assessment board. The total connection fee to be paid by Vineyard Church for service at 1533 West Arrowhead Road is the amount of \$8,900, which may be paid as set out in City Code Section 43-56.

Resolution 08-0397, as amended, was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Gilbert -- 1

Approved June 19, 2008

DON NESS, Mayor

- - -

Resolution 08-0378, authorizing agreement with the Junior League of Duluth, Inc., for the reconstruction of Playfront Park on city property, was introduced by Councilor Anderson for discussion.

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

Denise Bussa, representing the Junior League, reviewed that this has been a year long project in planning the rehabilitation of the playground in Bayfront Park and the league is committed to make the playground handicapped assessable.

Resolution 08-0378 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-0619-39, with the Junior League of Duluth, Inc., pursuant to which the league would fund and reconstruct Playfront Park on city-owned property in the Bayfront area of Duluth.

Resolution 08-0378 was unanimously adopted.

Approved June 19, 2008

DON NESS, Mayor

- - -

Resolution 08-0380, authorizing city officials to contract with Century Fence Company for the purchase and installation of six-foot high baseline fencing around the perimeter of the Duluth Heights Community Center ballfield for a total of \$26,763.45, was introduced by Councilor Anderson for discussion.

Councilor Gardner expressed concerns that the city should not be spending funds on fencing with the budget problems the city has and possibly closing recreation facilities.

Resolution 08-0380 was adopted as follows:

RESOLVED, that city officials are hereby authorized to contract with Century Fence Company for the removal of existing fencing and the purchase and installation of new, six-foot high baseline fencing around the perimeter of the Duluth Heights Community Center ballfield in accordance with specifications and the contractor's bid of \$25,130 plus \$1,633.45 sales tax for a combined total of \$26,763.45, terms net 30, payable from General Fund 100, Department/ Agency 700, Organization 1420, Object 5530, Project No. CM100-OT-0609.

Resolution 08-0380 was adopted upon the following vote:

Yeas: Councilors Cuneo, Fedora, Fosle, Gilbert, Krause, Stauber and President Reinert -- 7

Nays: Councilors Anderson and Gardner -- 2

Approved June 19, 2008

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR STAUBER

08-048 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW SECTION 50-1.50.1 DEFINING THE RESIDENTIAL PARKING

AREA, AMENDING SECTION 50-30 TO ESTABLISH THE AUTHORIZED PARKING AREAS ON A RESIDENTIAL LOT AND CREATING A VARIANCE FROM SUCH REGULATION.

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INTRODUCED BY COUNCILOR STAUBER

08-050 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-C, ONE FAMILY RESIDENTIAL, TO C-5, PLANNED COMMERCIAL DEVELOPMENT, PROPERTY LOCATED AT 114 WEST MYRTLE STREET, BETWEEN BASSWOOD AVENUE AND HUGO AVENUE (STEVE LINDBERG).

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR GILBERT

08-047 (9915) - AN ORDINANCE PERTAINING TO THE COMMUNITY ARTS SET-ASIDE, AMENDING SECTION 20-19 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Donald Dass, representing the Duluth public arts commission, stated his opposition to the ordinance change, and reviewed that the money that was to be set aside for the commission has not been paid to the commission in the past, but that the money from future projects that is set aside should be paid to the commission. He continued by saying that Duluth has a growing art community which enhances the quality of life in Duluth, and the commission uses their money to help artists in Duluth and preserve and promote public art.

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

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BY COUNCILOR KRAUSE

08-042 (9916) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING SECTION 50-118 RELATING TO INTERIM ORDINANCES.

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

- - -

BY COUNCILORS KRAUSE AND FEDORA

08-044 - AN ORDINANCE PERTAINING TO THE DULUTH PUBLIC ARTS COMMISSION; AMENDING SECTION 2-109 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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BY COUNCILOR KRAUSE

08-045 - AN ORDINANCE PERTAINING TO THE COMMUNITY ARTS SET-ASIDE, AMENDING SECTION 20-19 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Fedora moved an amendment changing the amount from "\$100,000" to "\$50,000" which failed for a lack of a second.

Councilor Krause stated that this ordinance would cap the amount of money to be set aside from building projects and the cap of \$100,000 is a significant amount of money that can be worked with.

Ordinance 08-045 failed upon the following vote (Public Document No. 08-0619-41):

Yeas: Councilors Fedora, Fosle and Krause -- 3

Nays: Councilors Anderson, Cuneo, Gardner, Gilbert, Stauber and President Reinert -- 6

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INTRODUCED BY COUNCILOR STAUBER

08-040 (9917) - AN ORDINANCE AMENDING SECTION 50-36.3 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ALLOWING SUBSURFACE SEWAGE TREATMENT SYSTEMS IN LOW DENSITY PLANNED DEVELOPMENTS.

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

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INTRODUCED BY COUNCILOR FOSLE

08-043 (9918) - AN ORDINANCE AUTHORIZING REDEVELOPMENT AGREEMENT WITH MINNESOTA POWER PERTAINING TO DULUTH STEAM DISTRICT NO. 2 AND THE SALE OF CERTAIN PROPERTY, RIGHTS AND INTERESTS AS AUTHORIZED THEREIN.

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

Pat Mullen, representing Minnesota Power, reviewed that they are under a state mandate to generate 25 percent of their electricity using renewable energy, and this sale of boilers and equipment embedded in the Hibbard Station will improve the facility and generate more renewable energy from those assets. He went on by saying that this is a good thing for Duluth as it provides cash to the city, a good thing for NewPage Corporation as it will allow Minnesota Power to negotiate for a long term steam agreement with NewPage that will give them health and vitality for the future in West Duluth, and Minnesota Power can invest in renewable resources in Duluth.

Mayor Ness stated that this is an opportunity for the city to get some much needed cash flow into the city which will be directed into the city's reserve fund and also reviewed that this property will now be on the tax rolls, which will benefit both the city and county.

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

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INTRODUCED BY COUNCILOR FOSLE

08-049 (9919) - AN ORDINANCE AMENDING SECTIONS 43-16, 43-25, 43-31, 43-33, 43-33.1, 43-33.2 AND 43-36 AND ADDING NEW SECTIONS 43-11.1 AND 43-33.4 TO THE DULUTH CITY CODE, 1959, AS AMENDED, ALL PERTAINING TO PROTECTION OF WATER QUALITY AND THE ENVIRONMENT THROUGH IMPROVEMENTS IN THE WASTEWATER COLLECTION SYSTEM.

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

Dave Barschdorf questioned that if the federal government wants the sewer overflows fixed, then the city should tell them to pay instead of taxing the citizens of Duluth.

Councilor Cuneo introduced amendments to the ordinance that were written by the administration.

Jim Benning, public works and utilities department director, reviewed the amendment has four changes to the ordinance that the administration is willing to change.

Councilor Cuneo moved to amend the ordinance as follows:

- (a) Delete the last sentence in Section 43-16;
- (b) Insert the following sentences after the first sentence in Section 43-31:

“Down spouts connected to roof gutters will not discharge water within two feet of the building foundations and parallel to the property if within five feet of the property line. An exception of this will be if the building down spout is connected to a rain barrel with a minimum capacity of 35 gallons”;

- (c) Add the following language at the end of Section 43-31(b):

“Any homeowners with redirected sump pump that deliberately discharges into the sanitary sewer system will be fined up to \$500 upon conviction for each offense. Additionally, any homeowner who installed a sump pump at any city expense which pump deliberately discharges into the sanitary sewer system will be required to reimburse the city for all costs associated with the installation of the sump pump;”

- (d) Amend the second sentence of Section 43-36 to read: “A building sewer that is leaking shall not be allowed,”

which motion was seconded and unanimously carried.

Councilor Stauber introduced an amendment to delete the section added regarding “laterals” under Section 43-33.1(c)(2). He stated that Duluth is unique by having red clay which does not allow permeation of water as it just runs off, and it is a mistake to ask homeowners to spend money on laterals instead of the sump pump programs, which motioned was seconded for discussion.

Mayor Ness stated that this provision needs to stay in the ordinance as it is a necessary part of the negotiations the city has with the EPA and the consent decree.

In response to councilors’ questions, Mr. Benning replied that the consent decree states that 175 laterals have to be replaced, and they are looking to houses that are obvious contributors to the sewer overflows to get into compliance by 2016 to avoid penalties.

Councilor Stauber’s amendment failed upon the following vote:

Yeas: Councilors Fedora, Fosle, Krause and Stauber -- 4

Nays: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

Councilor Gardner moved to amend the ordinance as follows:

- (a) In Section 43-11.1(a), change the monthly surcharge from “\$5.57” to “\$9.70”;
- (b) In Section 43-33.1(c)(2), add provisions for a credit for a rain garden in a yard if a sewer line has to be replaced,

which motion was seconded for discussion.

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At this time, 10:55 p.m., Councilor Fosle moved to extend the meeting until 11:15 p.m.

- - -

Councilor Fedora stated that he cannot support the amendment when there are other methods of diverting water which would not get the credit like a rain garden would, and the city already has the highest utility rate in the upper Midwest without charging the higher surcharge rate.

Councilor Gardner’s amendment, part (a), failed upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Yeas: Councilor Gardner -- 1

Nays: Councilors Anderson, Cuneo, Fedora, Fosle, Gilbert, Krause, Stauber and President Reinert -- 8

Councilor Gardner's amendment, part (b), failed upon the following vote:

Yeas: Councilors Anderson, Gardner and Gilbert -- 3

Nays: Councilors Cuneo, Fedora, Fosle, Krause, Stauber and President Reinert -- 6

Mayor Ness reminded councilors that the city is in consent decree negotiations with the EPA, the department of justice, the MPCA and WLSSD, and this is a very serious matter for the city. He continued by saying that the city has made significant improvements on the provisions in the consent decree because the city has taken a proactive approach to this issue and thereby gained the confidence of the EPA. Mayor Ness added that the only way to protect Lake Superior as policy makers is to fix the sanitary sewer system and reduce the amount of clean water that gets into that system and stopping the overflows into Lake Superior.

Councilor Stauber stated he cannot support the ordinance as he disagrees with the laterals requirement, that a fee of \$3.95 was approved by a previous council that is still on everyone's bill and he questioned whatever happened to that fee, and that at point of sale homeowners will be required to take out the house trap even if the house is not contributing to the problem which potentially could be a huge expense for the homeowner.

Councilor Fedora questioned if the city has exhausted pursuing state and federal funding sources for this unfunded EPA mandate, and the state should be agreeable to help with funding since it is not a city issue but a Lake Superior issue. He continued by saying that at the federal level Congressman Oberstar has secured funding for other large projects in Northeastern Minnesota and should be able to help with this mandate instead of putting the burden on the taxpayers. Councilor Fedora voiced concern that if this ordinance passes and the city pursues state and federal funding, then neither the state or federal government will see our need because the funding will already be in place.

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At this time, 11:15 p.m., Councilor Fosle moved to extend the meeting until 11:30 p.m.

- - -

Councilor Fosle reviewed that the city bonded for a \$3.5 million water construction bond and a sewer construction bond for \$3 million for the automated meter reading system and questioned if that was not bonding for a want instead of a need.

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

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

Nays: Councilors Fedora, Fosle, Krause and Stauber -- 4

- - -

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

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

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ORDINANCE NO. 9915

AN ORDINANCE PERTAINING TO THE COMMUNITY ARTS SET-ASIDE, AMENDING SECTION 20-19 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 20-19 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 20-19. Community arts set-aside.

That there is hereby established a community arts set-aside of one percent of the cost of all new building construction projects costing in excess of the city's current capitalization level for buildings and structures, funded in whole or in part by city funds for the furtherance of arts projects in the city. Upon the approval of any such project, an amount equal to the set-aside shall be transferred by the city auditor from the fund accounting for the building construction project to the municipal arts fund; provided, however, in the event that the project is funded in part by another entity, the city shall make every effort to secure an additional one percent of such entity's contribution to the project for the municipal arts fund; provided further, however, that the city's contribution to the municipal arts fund shall be limited to the set-aside on its share of the project costs.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 27, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 19, 2008
Approved June 19, 2008
DON NESS, Mayor

- - -

ORDINANCE NO. 9916

BY COUNCILOR KRAUSE:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING SECTION 50-118 RELATING TO INTERIM ORDINANCES.

The city of Duluth does ordain:

Section 1. That Chapter 50 of the Duluth City Code, 1959, as amended, be amended to amend Section 50-118 to read as follows:

Sec. 50-118. Interim ordinances and uses.

(a) Upon introduction of an interim ordinance to the city council, the council may provide for the imposition of interim uses. The imposition of interim uses shall be done by the introduction of a resolution. The resolution establishing

interim uses may provide that no use, development, project or subdivision for which an application has not been previously filed shall be established or expanded, nor shall any application for a license, building permit, administrative waiver, review or approval of any application, including an application for any zoning approval, which concerns both the geographical area and subject matter of the interim ordinance filed after the introduction of the interim ordinance, be granted or further processed, pending a final decision on the adoption of the interim ordinance;

(b) Upon final adoption of an interim ordinance, the following restrictions shall apply:

(1) No permits, licenses or other approvals of any kind which concern both the geographical area and subject matter of the interim ordinance shall be processed or issued except in accordance with its terms;

(2) No use, development, project or subdivision which concerns both the geographical area and subject matter of the interim ordinance shall be established or expanded except in accordance with its terms;

(c) If the interim ordinance is not adopted, the resolution establishing interim uses shall be null and void and requests for permits and other necessary approvals shall be processed promptly in accordance with the procedures governing the request.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: July 27, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

Passed June 19, 2008

Approved June 19, 2008

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9917

AN ORDINANCE AMENDING SECTION 50-36.3 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ALLOWING SUBSURFACE SEWAGE TREATMENT SYSTEMS IN LOW DENSITY PLANNED DEVELOPMENTS.

The city of Duluth does ordain:

Section 1. That Section 50-36.3 of the Duluth City Code, as amended, is amended to read as follows:

Sec. 50-36.3. Same--Standards.

A low density planned development shall implement the purposes set forth in Section 50-36.1 of this Code and shall meet the following standards and requirements:

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(a) Lot area per family. The average lot area per family within the site shall not be less than 80 percent of the lot area per family required in the district(s) in which the development is located;

(b) Frontage, building setbacks and yards. Frontages, building setbacks and yard requirements shall be established for each development plan to insure that the purposes of this Article are carried out. The following general standards shall be considered in establishing such requirements:

Dwelling type	Minimum lot frontage (in feet)	Minimum building setback from any low density planned development boundary line (in feet)	Minimum distance between principal buildings (in feet)
One-family	50	30	15
Two-family	75	30	15
Townhouse	75	50	15
Multiple dwelling	75	50	15

(c) Useable open space. Adequate provisions shall be made for the permanent preservation and maintenance of useable open space for the mutual use of all residents within the low density planned development. Useable open space shall not be less than 15 percent of the gross area of the project exclusive of streets, except that when the city council determines that publicly owned useable open space exists in close proximity to the proposed development, a lesser percentage may be approved. Usable open space shall be reasonably accessible from all dwelling units with minimal conflict with vehicular traffic. The use and development of such open space shall be limited to that approved through this special use permit;

(d) Natural features. Environmentally sensitive natural features such as swamps and other wetlands, steep slopes, rock outcrops, prime tree stands and flood plains shall be preserved by the development plan;

(e) Landscaping. Trees and/or shrubs shall be provided within all building setback and useable open space areas, and whenever practical, healthy trees within such areas shall be saved. Shade trees having a minimum trunk diameter of two inches at the time of placement shall be placed along all sides of parking areas with an average spacing of not more than 12 feet, and adjacent to all lot lines on public streets with a maximum spacing of 30 feet, except when the city council determines that because of topography or existing vegetation, lesser requirements are appropriate. Views of garages shall be minimized through judicious placement or through the placement of coniferous vegetation or sodded earth berms. Storage areas for refuse shall be screened with wood, brick or stone fences;

(f) Off street parking. For each two dwelling units a minimum of three off street parking spaces shall be provided, at least 1/4 of which shall be located within a garage, except when the city council determines that because of the type of

residents that will be occupying the dwelling units, lesser requirements are appropriate.

Each garage shall be similar in design character and materials to the dwelling to which it is appurtenant within the low density planned development. Each garage shall be designed and used for storage of not more than six vehicles. Parking areas containing more than eight adjacent parking spaces shall be separated by curbed landscaped islands which have a minimum width of eight feet and contain a minimum of two shade trees having a minimum trunk diameter of two inches at the time of placement, except when the city council determines that because of topography or existing vegetation, lesser requirements are appropriate;

(g) Arrangement of buildings. The location of all buildings shall be harmonious with significant natural features and shall maximize views of scenic resources from dwelling units;

(h) Building and structure design. All buildings and other structures shall be compatible with the texture, scale and massing of the existing development in the area;

(i) Sewage disposal. All subsurface sewage treatment systems shall conform to the following requirements:

(1) The proposed project is located in an area designated rural residential in the city of Duluth comprehensive land use plan, Duluth comprehensive plan future land use map, adopted June 26, 2006; and

(2) The city engineer approves in writing the use of the system; and

(3) The applicant provides a report prepared and certified by a certified soil scientist who is certified by the Minnesota pollution control agency as a subsurface sewage treatment systems designer. The report shall include the following data:

(A) Identification of the locations of suitable soil conditions for the siting of the subsurface sewage treatment system(s); and

(B) A letter from the appropriate permitting authority accepting the soil condition report; and

(4) The applicant shall impose covenants upon all owners within the permitted area requiring each owner to enter into a managed onsite system agreement. The agreement shall provide that all systems shall be inspected and maintained by a qualified third-party operator on a regular basis and provide for enforcement authority by the owner's association. A current copy of the covenants shall be submitted to the city planning department prior to the issuance of any building permit.

Section 2. That the city planning commission unanimously recommended approval of the ordinance amendment following a public hearing at their May 13, 2008, regular meeting and that such public hearing was duly noticed.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 27, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 19, 2008
Approved June 19, 2008
DON NESS, Mayor

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ORDINANCE NO. 9918

AN ORDINANCE AUTHORIZING REDEVELOPMENT AGREEMENT WITH MINNESOTA POWER PERTAINING TO DULUTH STEAM DISTRICT NO. 2 AND THE SALE OF CERTAIN PROPERTY, RIGHTS AND INTERESTS AS AUTHORIZED THEREIN.

The city of Duluth does ordain:

Section 1. That the city hereby designates the property described below as being surplus to the city's future needs and hereby declares its intention to alienate its interest in same.

Section 2. That, upon recommendation of the director of public works and utilities, the council has determined that it is appropriate to sell the below-described property to Minnesota Power, a division of Allete, Inc., as herein provided for without competitive bidding pursuant to the authorization of Section 2-177 of the Code because the property and easements involved are located on or appurtenant to property owned by said company and because said company is the only viable entity that could reasonably acquire and operate said property and easements.

Section 3. That the proper city officials are hereby authorized to enter into that certain redevelopment agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-0619-42, with Minnesota Power, a division of Allete, Inc., authorizing the sale of property and easements therein described for the total sum of \$2,500,000 and to execute all documents necessary with regard to said conveyance including the following:

(a) Conveyance of equipment as described on Exhibit C to said redevelopment agreement and any city-owned equipment appurtenant thereto;

(b) Relinquishment of any right, title or interest of the city in the Hibbard property as defined in said redevelopment agreement;

(c) Termination of the management agreement as described on Exhibit E to said redevelopment agreement;

(d) Conveyance of those easements as described on Exhibit B to said redevelopment agreement;

(e) Execution of that indenture of sale, easement termination and modification of common area agreement substantially in the form of Exhibit F to said redevelopment agreement;

(f) Execution of a permit assignment substantially in the form of Exhibit D to said redevelopment agreement;

(g) Execution of an assignment and assumption agreement pertaining to any steam service agreements in substantially the form of Exhibit G to said redevelopment agreement.

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Section 4. That the amount paid to city pursuant to this ordinance shall be paid into General Fund 100.

Section 5. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: July 27, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

Passed June 19, 2008

Approved June 19, 2008

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9919

AN ORDINANCE AMENDING SECTIONS 43-16, 43-25, 43-31, 43-33, 43-33.1, 43-33.2 AND 43-36 AND ADDING NEW SECTIONS 43-11.1 AND 43-33.4 TO THE DULUTH CITY CODE, 1959, AS AMENDED, ALL PERTAINING TO PROTECTION OF WATER QUALITY AND THE ENVIRONMENT THROUGH IMPROVEMENTS IN THE WASTEWATER COLLECTION SYSTEM.

The city of Duluth does ordain:

Section 1. That Section 43-16 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 43-16. Connection to city sewer system required.

The owner of any house, building or properties of any character wherein or whereon wastewater develops or occurs is hereby required, at the owner's expense, to install, and thereafter maintain, suitable wastewater collection facilities therein or thereon and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance [Chapter] at the time of construction of such facilities in the case of new construction or new use or within 90 days after date of official notice to do so in the case of existing housing, buildings or properties, provided that such public sewer is within 200 feet of the property line. All new building construction will include sump pump connections to a rain garden approved by the city engineer or to the city storm sewer system where feasible. In the event there is no feasible connections, the city may permit sump pump discharges directly to an approved site.

The owner of such existing premises may appeal such official notice to connect such premises to the proper public sewer by filing a notice of appeal with the city clerk within 15 days of such official notice. It shall be the duty of the city clerk to transmit such notice of appeal to the city council at the next regular or special meeting thereof. The council shall hold a hearing on such appeal within 15 days of the receipt by the council of said notice of appeal. The council may affirm or overturn the official notice to connect such premises to the proper public sewer. The decision by the council on such appeal shall be final. If the council affirms such

official notice, the council shall set a time for compliance with such order, which shall in no event exceed 90 days from the date of the hearing on the appeal.

Section 2. That Section 43-25 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 43-25. Costs of installation.

All costs and expenses incidental to the installation and connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Section 3. That Section 43-31 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 43-31. Unpolluted water prohibited.

(a) No leak, break, failure to function of a building sewer, or connection of area way drains, perimeter foundation drains, rain leaders, down spouts or rain connector, or any condition of the building sewer that allows other sources of unpolluted waters, such as stormwater, ground water, roof runoff, subsurface drainage, unpolluted industrial water or cooling water, to enter a building sewer or building drain which is connected directly or indirectly to a public sanitary sewer shall be made or allowed to exist. Down spouts connected to roof gutters will not discharge water within two feet of the building foundations, and parallel to the property if within five feet of the property line. An exception of this will be if the building down spout is connected to a rain barrel with a minimum capacity of 35 gallons. The owner or operator is responsible for compliance with the requirements of this Article. From time to time, the city may offer programs, grants or incentives in an effort to improve the sanitary collection system. Regardless of these measures, it is the policy of the city to inspect, enforce and attain compliance with this Code for all buildings and sewers. Enforcement actions separate from any program or incentive are proper. Homes with existing sump pumps will be reinspected to ensure proper functioning. There shall be no fee for this reinspection;

(b) No person owning or controlling, in whole or in part, any building shall allow any condition or connection prohibited in subsection (a) above to be made or to exist, or shall fail to cause any such condition or connection existing to be disconnected or remedied within 90 days of discovery of the defect or of being ordered to make such disconnection or repair by the director. Any homeowners with redirected sump pump that deliberately discharges into the sanitary sewer system will be fined up to \$500 upon conviction for each offense. Additionally, any homeowner who installed a sump pump at any city expense which pump deliberately discharges into the sanitary sewer system will be required to reimburse the city for all costs associated with the installation of the sump pump;

(c) No person shall tamper with, modify or make any change to any plumbing materials or equipment necessary to prevent noncompliance with the requirements of Subsection (a) above. Nor shall any owner or person owning or controlling any building permit any person to so tamper with, modify or make any changes to such materials or equipment in such building or fail to maintain in fully functional condition such materials and equipment.

Section 4. That Section 43-33 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 43-33. Designation of sewer basin for inspection; inflow and infiltration reduction (I&I) program notice of disconnect requirement.

Upon recommendation of the director, the council shall designate the basin or basins 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, which designation shall constitute the authorization of the I&I program in the sewer basin. Such resolution shall direct the director to notify, in writing, the owners and persons in control of premises connected with the sanitary sewer within such basin to disconnect any prohibited drain or device and to remedy any circumstance of the building sewer that allows unpolluted water into the wastewater collection system, all within 90 days after the date of such notice. Such notice shall be directed by the director to the owner or person in control of the affected property at the post office address of the person applying for or paying for sewer service for such premises. When so deposited in the post office of the United States, or an adjunct thereof, such deposit shall constitute due service of the notice upon the owner or controlling person therein named.

Section 5. That Section 43-33.1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 43-33.1. Entry for inspections; building sewer improvement, I&I program.

(a) Upon designation of any sewer basin pursuant to Section 43-33 above, the director shall cause all buildings within said sewer basin to be inspected for compliance with Section 43-31 above. Upon determination that any building does not comply with Section 43-31 above and does not qualify for a certificate of noncontribution, the director shall issue an order to disconnect any portion of the plumbing of such building in violation of said Section 43-31, or do any act required to attain compliance;

(b) No person shall fail or refuse to allow the director to inspect any building to determine whether the plumbing of such building complies with the requirements of Section 43-31 above after having been given reasonable advance notice of the director's intent to do so; such notice may be given by mail as provided for in Section 43-33 above or in person or by posting notice thereof on the premises to be inspected. In the event that the owner or person in control of any building shall deny or refuse to allow the director to inspect any such building after such notice has been given, the director may allow the inspection to be made by a qualified person who is not a city employee, in a manner acceptable to the director, having results reported and supported by evidence acceptable to the director, all at the owner's expense. If the owner or person in control refuses to allow any sufficient inspection, the director shall use such other means as are authorized by law, including but not limited to securing a search warrant for such building or a court order requiring that access be granted in order to gain access to conduct such inspection;

(c) (1) The director, using uniform criteria, shall determine which properties and/or building sewers in the district shall be included in the I&I program. For each building sewer included in the I&I program, sewer inspections required by

the director for purposes of the program will be performed by city employees or agents without charge. The director, using uniform criteria, shall annually designate at least 630 building sewers that, as part of the I&I program, will have the building sewer trap removed, footing drains disconnected from the sanitary sewer system, and a sump pump installed or gravity discharge installed. The city will pay up to \$2,150 of the reasonable cost of these improvements based upon the uniform criteria in the I&I guidelines:

(2) In addition, the director, using uniform criteria, shall annually designate at least 175 malfunctioning building sewers that, as part of the I&I program, will have the building sewer repaired, by lining or otherwise, or replaced. If footing drain disconnect, building sewer trap removal, and building sewer repair or replacement are all done as a single project under paragraph (1) or (2), then the maximum \$2,150 grant of paragraph (1) will apply so that the maximum total grant for that project would be \$2,150. The remainder of the cost of this repair or replacement shall be the responsibility of the owner. The city will assist an owner in obtaining a suitable loan from a private lender and securing any government assistance available for low to moderate income eligible properties, including CDBG programs:

(d) A property remains subject to all applicable standards, requirements, and penalties of this Chapter regardless of whether or not it is selected for the I&I program:

(e) The clean water surcharge shall terminate on June 30, 2028.

Section 6. That Section 43-33.2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 43-33.2. Certificate of noncontribution.

(a) Upon inspection of any building by the director for compliance with the requirements of Section 43-31 above and based on that inspection, the director is authorized to issue a certificate of noncontribution in a form suitable for recording among the property records of St. Louis County recorder if he or she determines either that:

(1) The sump pump, footing drain disconnect, and building trap removal are in compliance with Section 43-31 above;

(2) The plumbing materials and equipment as installed and operating in that building are in compliance with the requirements of Section 43-31 above;

(3) The plumbing and equipment in said building is not in compliance with the requirements of Section 43-31 above but the director determines that the building is not contributing any material or observable amounts of unpolluted water to the public wastewater collection system and is not likely to do so in the future;

(b) Certificates of noncontribution shall only be issued by the director and persons designated by him or her to issue such certificates. The director shall establish standards and procedures for certifying persons authorized to issue certificates of noncontribution on his or her behalf;

(c) In the event that the director determines after reasonable investigation that any building for which a certificate of noncontribution has been issued is now

contributing a material or observable amount of unpolluted water to the public wastewater collection system, the director may give notice in the manner provided for in Section 43-33 above of his or her intention to revoke such certificate of noncontribution and that such revocation shall become final 15 days of the date of giving such notice unless the affected owner or person in control of the affected building files a written appeal of that decision with the city clerk prior to the revocation of the certificate. Any such appeal shall be heard by the building appeals board in accordance with the procedures established under Section 10-5 of this Code. When the revocation of any certificate of noncontribution has become final, the director shall cause notice there to be filed in the office of the St. Louis County recorder.

Section 7. That Section 43-36 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 43-36. Requirements of connection.

The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the city. A building sewer that is leaking shall not be allowed. Any such connection shall be made gastight and watertight and verified by proper testing. The director shall have authority to promulgate rules, regulations and tests as to the manner in which connections shall be made and such rules, regulations and tests when so promulgated and filed with the city clerk shall be met.

Section 8. That the Duluth City Code, 1959, as amended, be amended by adding a new Section 43.11.1 to read as follows:

Sec. 43-11.1. Clean water surcharge.

(a) In order to protect the public health and the environment, the city, under order from the United States environmental protection agency and Minnesota pollution control agency must improve its wastewater collection system. Therefore, there shall be created a clean water surcharge upon each customer and user, commencing July 1, 2008 and terminating June 30, 2028. The amount of the monthly surcharge shall be \$5.57. There is also created in the city accounting system a fund known as the clean water fund. Into the fund shall be deposited the following amounts:

- (1) The amounts collected as the clean water surcharge under this Section;
- (2) Any amount allocated to it by action of the city council or city administration;
- (3) Any amounts received as penalties for violation of Chapter 43, Article IV;
- (4) Any amount received as fees or surcharge under Section 43-33.4;
- (5) Any amount received as the surcharge authorized by Section 43-12.1;
- (6) Any interest earned by the fund;
- (7) Any loans or grants received by the city for the purpose of designing, constructing, repairing, maintaining, or replacing structures or facilities, including structures used for sanitary sewage overflow storage, for the purpose of

attaining compliance with federal or state I&I standards, or any consent decree for that purpose which is binding on the city.

The money in the fund shall be spent only for the purpose set out in (7) above. The requirements of this Chapter continue in force after the termination of the clean water surcharge. It is the policy of the city that eventually each sewer in the city shall be inspected and brought into compliance with this Chapter.

Section 9. That the Duluth City Code, 1959, as amended, be amended by adding a new Section 43-33.4 to read as follows:

Sec. 43-33.4. Repairs required at time of sale.

(a) This Section 43-33.4 applies to transfers of ownership of property which property is required to be served by the city's public sanitary sewer, as set out in Section 43-16, or its successor;

(b) At least 30 days before a transfer of title to, or the entering into of a contract for deed for, or contract for sale of, real estate, which contract gives the buyer a right of possession, the seller shall notify the director of the date of the sale closing and arrange for a building sewer inspection to determine whether the property requires a sump pump, building sewer trap removal, and footing drain trap removal in order to be in compliance with this Chapter;

(c) If the building sewer contains a house trap, it shall be removed. If the property requires footing drain disconnections and sump pump installation, it shall be done. The cost of this work is the responsibility of the owner. The required repairs shall be completed within 90 days after the sale closing. If they are satisfactorily completed, the director shall issue a certificate of noncompliance from footing drain contribution only. If the required repairs are not satisfactorily completed, the owner or customer shall be charged a monthly surcharge of \$250 each month until the repairs are satisfactorily completed.

Section 10. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 27, 2008)

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

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

Nays: Councilors Fedora, Fosle, Krause and Stauber -- 4

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 19, 2008
Approved June 19, 2008
DON NESS, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 21, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0721-01 Duluth Builder's Exchange petition to vacate that four feet by 100 feet portion of the unimproved public alley easement parallel and adjacent to the eastern property line of Plat 3910, Parcel 03730, Rice's Point, Block 38, Lots 162 - 172, even numbered lots, commencing at the northeast corner of lot 162, extending four feet easterly along the line of the northern boundary of lot 162, turning 90 degrees southerly and running 100 feet, parallel to the eastern property line of lots 162, 164, 166 and 168, turning 90 degrees westerly for four feet and intersecting with the southeast corner of lot 168. -- Assessor

08-0721-02 Donald J. Farrell, et al. (three signatures), vacation petition for 14th Avenue West extending on a north line from the Fourth Street Alley to the south line of Fifth Street. -- Assessor

08-0721-03 Greg Kramer, et al. (four signatures) petition to vacate 125 feet of alley easement in Block 19, Duluth Heights Sixth Division which is parallel to Basswood Avenue and Mulberry Street. -- Assessor

08-0721-04 Minnesota state auditor:

(a) Duluth airport authority audit report for the years ended December 31, 2007 and 2006;

(b) Duluth transit authority audit report for the years ended December 31, 2007 and 2006;

(c) Western Lake Superior Sanitary District:

(1) Comprehensive annual financial report for the year ended December 31, 2007;

(2) Management and compliance report for the year ended December 31, 2007. -- Received

08-0721-05 Shane Doesken communication regarding proposed ordinance pertaining to keeping chickens in the city (08-020-O). -- Received

08-0721-28 Gary Glass communication regarding resolution requesting a study on the public safety impact resulting from the reduction in the number of fire rigs (08-0482R). -- Received

08-0721-29 Janet Karon communication regarding resolution alienating certain city property on Park Point and authorizing the sale of same (08-0457). -- Received

08-0721-07 Target Corporation, by Faegre and Benson, LLP, appeal of planning commission denial of water resources management ordinance variance request. -- Committee 2 (planning and economic development)

08-0721-08 The following communications regarding designation of certain trails and areas for use as off-leash dog trails and areas (08-0341R and 08-035-O): (a) Susan Bolinger; (b) Janet Draper; (c) Kris Fossum; (d) Brian Ronstrom; (e) Michael Waxman; (f) Yanlin Yu. -- Received

08-0721-06 The following communications regarding new parking meter fees (08-0450R and 08-0454R): (a) Ron Anderson; (b) Thomas R. Holden; (c) Rick and Patty Lundquist; (d) David Pueringer; (e) Dianna von Rabenau. -- Received

08-0721-30 The following communications regarding proposed ordinances relating to the hours for special events at Bayfront Festival Park (08-056-O and 08-057-O): (a) Jacky Block; (b) Mark Brandt; (c) Heather Davern; (d) Stacey Harter; (e) K and H. Lindstrom; (f) Sara Schaffer. -- Received

08-0721-31 The following communications regarding proposed ordinance authorizing charges for emergency services and collection thereof (08-055-O): (a) Jim Reed; (b) Douglas and Catherine Vanderport. -- Received

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REPORTS FROM OTHER OFFICERS

08-0721-09 Assessor:

(a) Affidavits of mailing of notice of:

(1) Informational meeting at 5:00 p.m. on July 15, 2008, and a Duluth City Council public hearing at 7:00 p.m. on July 28, 2008, both to be held in the Council Chamber, Third Floor, City Hall, regarding the proposed 2008 street preservation program - Colalillo Drive, Piedmont Heights, Anderson Road and Third and Fourth streets. -- Clerk

(2) Public hearing on reassessment of local improvement and levying of assessments against real estate specially benefitted by such improvements regarding Contract No. 7036, Plat 4430 Parcel 02090, SIP Lincoln Park street improvement (assessable amount: \$729.05); and Contract No. 1190021, Plat 2710, Parcel 02180, watermain extension (assessable amount: \$8,550.93);

(b) Assessment roll of delinquent solid waste collecting expenses during the period of March 1, 2007, to June 1, 2008, for which the licensed collector has not been reimbursed;

(c) For confirmation the assessment rolls levied to defray the assessable portions of:

(1) Contract No. 5405, West Palm Street from Robin avenue to Teak Avenue, eight inch watermain and sanitary sewer (assessable amount: \$113,788.35) (08-0445R);

(2) Contract No. 7036, Plat 4430 Parcel 02090, SIP Lincoln Park street improvement (assessable amount: \$729.05) (08-0446R);

(3) Contract No. 1190021, Plat 2710, Parcel 02180, watermain extension (assessable amount: \$8,550.93) (08-0447R);

(d) Letter of sufficiency of petitions to vacate:

(1) 14th Avenue West extending on a north line from the Fourth Street Alley to the south line of Fifth Street;

(2) That four feet by 100 feet portion of the unimproved public alley easement parallel and adjacent to the eastern property line of Plat 3910, Parcel 03730, Rice's Point, Block 38, Lots 162 - 172, even numbered lots, commencing at the northeast corner of lot 162, extending four feet easterly along the line of the northern boundary of lot 162, turning 90 degrees southerly and running 100 feet, parallel to the eastern property line of lots 162, 164, 166 and 168, turning 90 degrees westerly for four feet and intersecting with the southeast corner of lot 168. -- Received

08-0721-10 Clerk applications to the Minnesota gambling control board for exemption from lawful gambling license from: (a) Rocky Mountain Elk Foundation on October 18, 2008 (raffle); (b) St. Michael's Church on October 12, 2008 (bingo and raffle). -- Received

08-0721-11 Parks and recreation department director minutes of Lake Superior zoological society meetings of: (a) March 19; (b) April 16, 2008, meetings. -- Received

08-0721-12 Purchasing agent emergency order awarded to Service Electric for repair of Lift Station No. 2 pump for \$47,117.73. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

08-0721-13 Alcohol, gambling and tobacco commission minutes of: (a) May 7; (b) June 4, 2008, meetings. -- Received

08-0721-14 Board of zoning appeals minutes of May 27, 2008, meeting. -- Received

08-0721-15 Charter commission minutes of April 9, 2008, meeting. -- Received

08-0721-16 Commission on disabilities minutes of June 4, 2008, meeting. -- Received

08-0721-17 Community development committee minutes of April 22, 2008, meeting. -- Received

08-0721-18 Duluth airport authority: (a) Balance sheet for month ended April 30, 2008; (b) Minutes of May 20, 2008, meeting. -- Received

08-0721-19 Duluth human rights commission minutes of June 11, 2008, meeting. -- Received

08-0721-20 Duluth/North Shore Sanitary District minutes of May 14, 2008, meeting. -- Received

08-0721-21 Duluth transit authority: (a) Income statement for March, 2008; (b) Minutes of April 30, 2008, meeting. -- Received

08-0721-22 Entertainment and convention center authority minutes of June 24, 2008, meeting. -- Received

08-0721-23 Housing and redevelopment authority of Duluth financial and compliance report for the year ended September 30, 2007. -- Received

08-0721-24 Library board minutes of May 27, 2008, meeting. -- Received

08-0721-25 Parks and recreation commission minutes of June 11, 2008, meeting. -- Received

08-0721-26 Planning commission minutes of June 10, 2008, meeting. -- Received

08-0721-27 Seaway Port authority of Duluth financial report of March 2008. -- Received

- - -

At this time, 7:02 p.m., the public hearing regarding the Ikonics JOBZ expansion agreement (08-0416R) began.

No one appeared that wished to speak.

At this time, 7:03 p.m., the public hearing was closed and the regular order of business was resumed.

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Joan Linski commented on the need for the cleaning up of the barrels of toxic waste that were dumped into Lake Superior and that illegally detonated fireworks are being discharged in her neighborhood, as early as the tenth of June and as late as the 14th of July.

- - -

Jerry Schlafer commented on the rash of vandalism and that this has caused a good family to move out of Duluth. He stated that victims of vandalism should not be punished by charging those that have graffiti on their property. On the subject of charges for emergency services, Mr. Schlafer felt that if these changes are adopted, citizens are on their own without police and fire protection.

- - -

RESOLUTIONS TABLED

Councilor Krause moved to remove resolutions 08-0204 and 08-0381, approving and denying, respectively, the permanent expansion of the on sale intoxicating liquor license of J&J Miller, Inc. (Copasetic Lounge), 323 East Central Entrance, from the table, which motion was seconded and unanimously carried.

Resolution 08-0204 was adopted as follows:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor license for the period ending August 31, 2008, subject to departmental approvals:

J&J Miller, Inc. (Copasetic Lounge), 322 East Central Entrance.

Resolution 08-0204 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

Resolution 08-0381 failed unanimously (Public Document No. 08-0721-32).

- - -

Councilor Krause moved to remove resolutions 08-0382 and 08-0383, approving and denying, respectively, the permanent expansion of the on sale intoxicating liquor license of Player's Grandstand, Inc. (Player's Sports Bar), 4024 Grand Avenue, 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.

Rick McArthur, owner of Players Grandstand, explained that his application had been filed in March and that all the immediate neighbors stated that they would have no problem with him having an outside area, which is a commercially zoned area.. He further noted that the police calls were not because of his patrons and he just wanted to be treated fairly compared to the bars in Canal Park.

Councilor Krause supported the recommendations for denial of this expansion until the conditions of the police and building safety divisions have been resolved.

Councilor Cuneo moved to amend Resolution 08-0382 by deleted the phrase "departmental approvals" after the phrase "subject to" and adding the following:

- (a) Departmental approvals;
- (b) Code compliance within 30 days;
- (c) Proper trash receptacles, trash removal and cleaning;
- (d) Barriers to control noise;
- (e) Closing of the applicable designated serving area by 10:00 p.m., Sunday through Thursday, and Midnight on Friday and Saturday; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

(f) No additional amplification of sound or music without further approvals," which motion was seconded and unanimously carried.

Resolution 08-0382, as amended, was adopted as follows:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor license for the period ending August 31, 2008, subject to:

- (a) Departmental approvals;
- (b) Code compliance within 30 days;
- (c) Proper trash receptacles, trash removal and cleaning;
- (d) Barriers to control noise;
- (e) Closing of the applicable designated serving area by 10:00 p.m., Sunday through Thursday, and Midnight on Friday and Saturday; and
- (f) No additional amplification of sound or music without further approvals.
Player's Grandstand, Inc. (Player's Sports Bar), 4024 Grand Avenue.

Resolution 08-0382, as amended, was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved July 21, 2008

DON NESS, Mayor

- - -

Resolution 08-0383 failed upon the following vote (Public Document No. 08-0721-33):

Yeas: Councilor Krause -- 1

Nays: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

- - -

Councilor Krause moved to remove resolutions 08-0384 and 08-0385, approving and denying, respectively, the permanent expansion of the on sale intoxicating liquor license of Lucky Break Inc. (Horseshoe Billiards), 2415 West Superior Street, 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.

Jerry Fredrickson, licensee, showed pictures of other bars that serve alcohol and food outside and stated that he did not think that they had to submit an architectural drawing for their fence or area. He felt that because he applied for his permit last September, prior to the new ordinance going into effect, he should not be required to meet all the new conditions. He noted that in initial meetings with the police, there was no mention of a 100 foot distance to residents and that he has had many different responses from the building safety office as to what he needs to do. In conclusion, Mr. Fredrickson requested that the resolutions relative to his establishment be tabled for 30 days so that he could complete all the necessary building safety requirements.

The administration recommended that this license approval be denied and then after one year, pending the reduction in police calls, it could be approved.

Councilor Gardner moved to table both resolutions for 30 days, which motion was seconded and carried upon the following vote:

Yeas: Councilors Anderson, Fosle, Gardner, Gilbert and Stauber -- 5

Nays: Councilors Cuneo, Fedora, Krause and President Reinert -- 4

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR STAUBER

08-050 (9920) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-C, ONE FAMILY RESIDENTIAL, TO C-5, PLANNED COMMERCIAL DEVELOPMENT, PROPERTY LOCATED AT 114 WEST MYRTLE STREET, BETWEEN BASSWOOD AVENUE AND HUGO AVENUE (STEVE LINDBERG).

Councilor Stauber moved to suspend the rules to consider the ordinance at this time, which motion was seconded and unanimously carried.

Councilor Stauber moved to remove Resolution 08-0404, denying a request to amend Chapter 50 of the Duluth City Code, 1959, as amended, Zoning District Map No. 28 as contained in the Appendix to Chapter 50, to provide for the reclassification from R-1-c, one family residential, to C-5, planned commercial development, property located at 114 West Myrtle Street, between Basswood Avenue and Hugo Avenue (Steve Lindberg), from the table, which motion was seconded and unanimously carried.

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

- - -

Resolution 08-0404 failed unanimously (Public Document No. 08-0721-34).

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCE

ORDINANCE TABLED

BY COUNCILORS STAUBER, ANDERSON AND GARDNER

08-035 (9921) - AN ORDINANCE AUTHORIZING LICENSING OF UNLEASHED DOGS TO USE DESIGNATED AREAS AND TRAILS AMENDING SECTION 6-36 OF THE DULUTH CITY CODE, 1959, AS AMENDED AND ADDING NEW SECTIONS 6-36.1, 6-36.2 AND 6-36.3 TO ARTICLE IV OF CHAPTER 6 THEREOF.

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

Councilor Stauber moved to remove Resolution 08-0341, designating certain trails and areas for use as off-leash dog trails and areas, 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 issue.

Joan Linski expressed support for the off-leash trails, noting that the city allows for snowmobiles, all terrain vehicles and cross country skiers, but does not allowing the public the walk their dogs off unleashed.

Councilors Fosle and Krause expressed concern over the ordinance for reasons of: a lot of residents are not good citizens relative to picking up after their pets and having the proper shots to control disease; a dog reacts differently when running free; uncontrolled dogs will run after other animals, especially deer, into residence yards; the city cannot afford to employ more staff to police this activity and there could be a great impact on vehicle parking by these trails.

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

Yeas: Councilors Anderson, Cuneo, Fedora, Gardner, Gilbert, Stauber and President Reinert -- 7

Nays: Councilors Fosle and Krause -- 2

- - -

President Reinert moved to amend the resolution, by adding the following language at the end:

“(d) The parks and recreation commission has adopted a resolution identifying a responsible incorporated entity to operate the dog trails with no in-kind or monetary contribution from the city; and

(e) A memorandum of understanding has been executed,”
which motion was seconded and discussed.

Chief Administrative Officer Potswald stated that the administration would work with the organizations to establish memorandums of understanding so there will be clear roles of responsibility of who is responsible for what.

President Reinert’s amended carried upon a unanimous vote.

Resolution 08-0341, as amended, was adopted as follows:

BY COUNCILORS ANDERSON, GARDNER AND STAUBER:

The city council finds:

(a) Ordinance 08-035 and Section 6-36.2 of the Duluth City Code, 1959, as amended, provide for the designation of off-leash trails and areas on public property under certain conditions. Dogs having a current off-leash license may use said trails and areas without being restrained by chain or leash; and

(b) The Duluth parks and recreation commission, after conducting a public hearing and deliberating on the issue, recommends that the following three trails and areas abutting these trails and a fourth area be designated for use by the public as off-leash trails and areas for dogs having a current off-leash license:

- (1) Birchwood Park area;
- (2) Central Park area;
- (3) Amity/Maxwell Road area; and
- (4) Howtz Street and Rice Lake Road, said designation to be effective only after

fencing of the entire perimeter has been erected as determined by the city’s chief administrative officer.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council, under authority of Ordinance 08-035 and Section 6-36.2 of the Duluth City Code, 1959, as amended, hereby establishes the above trails and areas, substantially as shown on Public Document No. 08-0721-35, on file in the office of the city clerk, as off-leash for the purpose of allowing dogs having a current off-leash license to use said trails and areas without being restrained by chain or leash, except that

the designation of the Howtz Street and Rice Lake Road area shall not be effective until fencing of the entire perimeter has been erected as determined by the city's chief administrative officer.

BE IT FURTHER RESOLVED, that this resolution shall not take effect until all of the following have occurred:

- (a) Ordinance 08-035 becomes effective;
- (b) A resolution establishing fees for off-leash licenses has been adopted;
- (c) A resolution establishing rules for off-leash trails and areas has been adopted;
- (d) The parks and recreation commission has adopted a resolution identifying a responsible incorporated entity to operate the dog trails with no in-kind or monetary contribution from the city; and
- (e) A memorandum of understanding has been executed.

Resolution 08-0341, as amended, was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Gardner, Gilbert, Stauber and President Reinert -- 7

Nays: Councilors Fosle and Krause -- 2

Approved July 21, 2008

DON NESS, Mayor

- - -

MOTIONS AND RESOLUTIONS

The following resolution was read for the second time:

BY PRESIDENT REINERT

08-0405 - RESOLUTION AMENDING THE STANDING RULES - AGENDA MEETINGS.

Councilor Krause opposed the resolution because district councilors should have the opportunity to bring forward concerns that are particular to a certain area of town and that potentially the authority of a council president could be a contentious issue.

Resolution 08-0405 was adopted as follows:

BY PRESIDENT REINERT:

RESOLVED, that the Standing Rules of the Duluth City Council are amended to add a new Rule 20 to read as follows:

Rule 20. ACTIONS AT AGENDA MEETINGS.

At an agenda meeting, provided for in Rule 1, the council may add items to the agenda, remove items from the agenda, change the order of the agenda. The agenda may be changed or determined by rule of the presiding officer. In that event, any member may challenge the ruling, and the appeal will be had as set out in Robert's Rules. Any member may propose to change or determine the agenda by a motion made and seconded. Any such challenge or motion shall require a vote of 2/3 of the members present in order to pass. If a quorum, as defined in the Charter, be not present at the agenda meeting, then the vote on a motion or

challenge made shall be taken as the first order of business at the following city council meeting.

Resolution 08-0405 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved July 21, 2008

DON NESS, Mayor

CONSENT AGENDA

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

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

RESOLVED, that pursuant to Duluth City Code Section 8-56(d), Resolution 07-0723 adopting license, permit and fee charges for 2008 be amended to increase fees for the following services, charges and fines to the amounts set forth below, which fees shall be effective as of the effective date of this resolution:

Library	
License, Permit, Fee Name	2008 Fee
Billing service charge	\$3.00
Card replacement	\$3.00
Computer lab rental (four hours or less)	\$150.00
Extended use fines (per day)	
Adult items	\$.30

Resolution 08-0423 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

RESOLVED, that the assessment roll levied to defray the assessable portion of West Palm Street from Robin Avenue to Teak Avenue - eight inch watermain and eight inch sanitary sewer (Contract #5405; assessable amount: \$113,788.35) to be deposited in Fund 325, is hereby confirmed.

Resolution 08-0445 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED, that the assessment roll levied for reassessment of canceled SIP Lincoln Park street improvement assessment (Contract #7036; assessable amount: \$729.05) to be deposited in Fund 330, is hereby confirmed.

Resolution 08-0446 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED, that the assessment roll levied for reassessment of a canceled watermain extension (Contract #1190021; assessable amount: \$8,550.93) to be deposited in Fund 325, is hereby confirmed.

Resolution 08-0447 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED that the proper city officials are hereby authorized to accept a grant from the Duluth-Superior Area Community Foundation in the amount of \$2,500 to defray costs to send the mayor to the Great Lakes City Conference on sustainability, said sum to be deposited in the general fund, mayor's other expenses.

RESOLVED FURTHER, that the city expresses its appreciation for said grant to said foundation for its generous support of the city to facilitate the city's participation in this event.

Resolution 08-0464 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to enter into an engineering/consultant agreement with Foster Jacobs & Johnson, Inc., for the sum of not to exceed \$54,500, from Fund 450, Agency 030, Object 5520, CP2007 OT-0713, for providing certain professional services to the city of Duluth in connection with repair/update of the Duluth Polar Shores exhibit at Duluth Zoological Gardens, 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. 08-0721-36.

Resolution 08-0418 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Krech Ojard & Associates, P.A., for a sum not to exceed \$13,935, from Fund 100, Agency 0700, Organization 1420, Object 5520, for providing certain professional services to the city of Duluth re-roofing and repairs of various city owned buildings, 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. 08-0721-37.

Resolution 08-0421 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED, that city officials are authorized to contract with Xerox Corporation for the five-year lease and maintenance of a Xerox 4595 high-capacity copier/printer in the City Hall copy/mail center, in accordance with the vendor's quote of \$9,758.16 plus sales tax of \$634.28 plus print charges of \$4,663.20, for a total cost of \$15,055.64 per year and \$75,278.20 for five years, payable from the General Fund 100, Agency 700, Organization, 1404, Object 5404.

Resolution 08-0431 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of 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 27, 2008, with Gary Schneider, manager.

Resolution 08-0433 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating liquor license, on sale Sunday license, dancing license and 2:00 a.m. beverage license for the period beginning August 29, 2008, and ending August 31, 2008, subject to departmental approvals and the payment of sales and property taxes:

Misul, Inc. (Rex), 600 East Superior Street, with Michael Lemon, president and 100 shares and Sue Ann Lemon, secretary/treasurer and 100 shares.

Resolution 08-0434 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

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 Sites
Duluth Amateur Basketball Association	Sneakers, 200 West First Street

Resolution 08-0435 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

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 2008

Beerhunters Softball Team, Wheeler Field, for August 2 and 3, 2008, with Ron Heurung, manager.

Resolution 08-0436 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

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 1, 2008, with the serving starting at 6:00 p.m. and the music and serving ceasing at 1:00 a.m.

Rustic Bar, Inc. (Rustic Bar), 401 North Central Avenue, for August 1, 2008, with the serving starting at 6:00 p.m. and the music and serving ceasing at 1:00 a.m.

Dwayne and Kimberly, Inc. (Kom on Inn), 332 North 57th Avenue West, for August 1, 2008, with the serving starting at 6:00 p.m. and music and serving ceasing at 1:00 a.m.

Dubh Linn Pub & Billiards, LLC (Dubh Linn Pub & Billiards), 109 West Superior Street, for July 25, 2008, with the music and serving starting at 6:00 p.m. and ceasing at midnight.

Player's Grandstand, Inc. (Player's Grandstand), 4024 Grand Avenue, for August 2 and 9, 2008, with the music and service starting at 7:00 p.m. and ceasing at midnight.

Resolution 08-0437 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to transfer \$27,069 from Fund 259, Duluth public facility and program fund and \$30,173 from Fund 100 general fund park land sales reserve to Capital Fund 450, Department/Agency 030, Object 5535, CP 2007 OT-0721, to cover charges for fire damage deductible to reconstruct Harrison Community Center and for charges for unforeseen structural failure in the roof and support piers of the entry canopy of the Harrison Community Center which is non-fire related.

Resolution 08-0459 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Construction Services, Inc., for the Duluth Heights ADA/access improvements in accordance with its low specification bid of \$50,363, payable out of Fund 100, Department/Agency 700, Organization 1420, Object 5530 OT-0816-G.

Resolution 08-0460 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of police sergeant, which were approved by the civil service board on May 6, 2008, and which are filed with the city clerk as Public Document No. 08-0721-38, are approved. This

classification shall remain subject to the city's collective bargaining agreement with its police unit employees and compensated at Pay Range 328.

Resolution 08-0420 was unanimously adopted.
Approved July 21, 2008
DON NESS, Mayor

- - -

RESOLVED, that pursuant to Resolution 08-0315 and Resolution 08-0411, the salary for Gunnar B. Johnson, city attorney, in 2008 shall be \$8,250 per month.

Resolution 08-0478 was unanimously adopted.
Approved July 21, 2008
DON NESS, Mayor

- - -

BE IT RESOLVED, that the city of Duluth (the city) act as the legal sponsor for the project contained in the business development/infrastructure grant program application to be submitted on July 29, 2008, 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 \$250,000 for funding of this project on behalf of the North Business Development Area at the Duluth International Airport.

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 no less than \$250,000 in matching funds for the project if said grant is awarded by the state and accepted by the city, which funds are anticipated to be provided by Mn/DOT, St. Louis County, a private developer and the federal economic development administration.

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 acceptance thereof shall be subject to further resolution of the council authorizing such acceptance.

BE IT FURTHER RESOLVED, that the city certifies that it will comply with all applicable laws and regulations as stated in all contract agreements it accepts.

Resolution 08-0430 was unanimously adopted.
Approved July 21, 2008
DON NESS, Mayor

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The city council finds as follows:

(a) A sufficient petition was filed with the city clerk requesting the vacation of certain street, avenue and alley rights-of-way, located north of Highway 61 Expressway and about 1-1/2 miles from the Lester River. Since the new Eastridge Plat to be developed will include other streets to accommodate the new development, the rights-of-way requested to be vacated by the applicant are as follows:

72nd Avenue East, 73rd Avenue East, 74th Avenue East, 75th Avenue East, Oakley Street, Avondale Street, and all alleys in Lakeview Manor Division and Chase Avenue (north of

Highway 61), Hoover Street and Hollister Street (east of 72nd Avenue East) in Brighton Gardens First Division; and

(b) 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 during a public hearing; and

(c) The planning commission, at its July 8, 2008, regular meeting, unanimously recommended that except for Chase Avenue, the requested vacations be approved with conditions; and

(d) The city planning department realized after the planning commission considered this matter that the vacation of Hollister Street east of 72nd Avenue East would serve no use to the applicant as it is not in the new Eastridge Division Plat, the applicant will gain no land rights by its vacation and the Hollister Street right-of-way may be needed in the future to support future land use. Therefore, the planning department recommends that Hollister Street east of 72nd Avenue West not be vacated; and

(e) There will be no continuing public need for the rights-of-way requested to be vacated except for Chase Avenue between the Chase Avenue/Mn/DOT Highway 61 Expressway intersection and Hoover Street, and Hollister Street east of Chase Avenue since the new Eastridge Division Plat will include new street rights-of-way.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to vacate street and alley public rights-of-way, as are legally described below:

72nd Avenue East, 73rd Avenue East, 74th Avenue East, 75th Avenue East, 76th Avenue East, Avondale Street, Oakley Street and all alleys all in Lakeview Manor Division; and Hoover Street east of Chase Avenue in Brighton Gardens First Division.

BE IT FURTHER RESOLVED, that the city clerk shall not file the vacation until final approval of the Eastridge Division Plat.

Resolution 08-0463 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED, that Resolution 08-0302, passed on May 12, 2008, to Insituform Technologies USA, Inc., for 2008 cured-in-place pipe (CIPP) rehabilitation of sanitary sewers at various locations be amended to increase the amount by \$107,824.35 for a new total of \$326,739.35, payable from Sanitary Sewer Bond Fund 0531, Department/Agency 500, Object 5532, City Project No. 0667SN.

Resolution 08-0422 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED, that Resolution 05-0475, adopted July 11, 2005 to MSA Professional Services, Inc., for professional engineering services for design, bidding and construction services for the rehabilitation/reconstruction of sanitary sewer lift stations be amended to increase the amount by \$55,731 for a new total of \$163,097. The increase will be payable from Sanitary Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5536, city project numbers 0085SN, 0086SN and 0170SN.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Resolution 08-0440 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

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. 08-0721-40 with University of Minnesota Natural Resources Research Institute for services related to stormwater collection and analysis in the amount of not to exceed \$121,482, payable from the Stormwater Special Projects Fund 535, Agency 500, Organization 1915, Object 5439.

Resolution 08-0442 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED, that Resolution No. 07-0478 is hereby amended to authorize the proper city officials to accept the donation of street and utility easements located in Blocks Lots 5 through 16, Blocks 5, 6 and 10, of Marine Division and 30th Avenue West, as shown on Public Document No. 08-0721-41 on file in the office of the city clerk, from Clyde Industrial Park, Inc., as provided for in the development agreement between said party and the city.

Resolution 08-0443 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with JMF Construction, Inc., for the 2008 sanitary and storm manhole adjustment program for the apparent low bid of \$67,162, payable out of Sanitary Sewer Fund 0530 and Stormwater Fund 0535, Agency 500, Organization 1905, Object 5535, city project nos. 0370SN/0371ST.

Resolution 08-0449 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with JMF Construction, Inc., for the 2008 CDBG Phase 6 Downtown area accessibility project - curb ramps and sidewalk replacement for the apparent low bid of \$108,573.12, payable out of CDBG Fund 0262, Department/Agency 020, Object 5530, City Project No. 0679TR.

Resolution 08-0453 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

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 Morley Parkway from Snively Road to Leicester Avenue.

Resolution 08-0396 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED, that the proper city officers are authorized to enter into an agreement with the city of St. Paul, which agreement creates a joint powers agreement and provides for law enforcement officers to assist the city of St. Paul during the Republican National Convention, said agreement to be substantially in the form of Public Document No. 08-0721-42 on file in the office of the city clerk; funds received as reimbursement for city expenses to be deposited in Fund 100, Agency 200, Organization 1610, Revenue Source 4650.

Resolution 08-0426 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

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. 08-0721-43 with Arrowhead Regional Correction for services related to the domestic abuse intervention project in the amount of not to exceed \$160,188, payable from Fund 215-200-2280-4209-02.

Resolution 08-0427 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

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. 08-0721-44 with Minnesota Program Development, Inc., for services related to the domestic abuse intervention project through the mending the sacred hoop program in the amount of not to exceed \$1,600, payable from Fund 215-200-2280-4209-02.

Resolution 08-0428 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

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 First and Second Avenues West on July 25, 2008, from 6:00 p.m. to 12:00 a.m. in conjunction with the Downtown Street Dance, 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 08-0438 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

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, Bristol Street and 57th Avenue West between Grand Avenue and Central Avenue on August 1, 2008, from 6:00 p.m. to 1:00 a.m. 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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 08-0439 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

The city council finds as follows:

(a) The building official of the city of Duluth duly issued condemnation orders against the following parcels of property, grounds of condemnation being the buildings are structurally unsound, open to trespass, and a menace to the neighborhood, and the criteria of City Code Section 10-3 was met in each case and evidence thereof has been placed in the file; and

(b) The cost to the city for the demolition of the following parcels of property has been estimated to not exceed \$39,137.66; and

(c) Notices of condemnation were served as follows:

Parcel 1: 4011 Grand Avenue, legally described as south 53' of west 29' of Lot 6, Block 21, Hazelwood Addition, by certified mail on Food for Life USA, Ltd., Knazze Lamont III, 38582 Clover Circle, Hinckley, MN 55037, returned by mail as "unclaimed" and advertised in Duluth News Tribune on January 17 and 18, 2008; and

Parcel 2: 911 North 23rd Avenue West, legally described as Lots 1, 2, 3, and that part of Lot 4, Block 2, Spaldings Addition to Duluth and the East 1/2 of Lot 375, Block 181, Duluth Proper Second Division, lying within 73-82/100 feet of the northerly line of said Lot 4, Block 2, signed by S. Nordstrom on August 10, 2007.

NOW, THEREFORE, BE IT RESOLVED, that the building official is hereby authorized and directed, forthwith, to take whatever means may be necessary to abate or cause the abatement of the nuisance now existing on the above named properties, and to make prompt report in writing to the city council with respect to the abatement and removal of such nuisances, together with cost if any thereof, to the city of Duluth. (Budget accounting information: 100-100-1504-5453; current unobligated amount: \$39,137.66; estimated cost of demolition: \$23,000).

Resolution 08-0444 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Municipal Emergency Services, Inc., for the tax-exempt purchase and delivery of 67 self-contained breathing apparatus units with options in accordance with the vendor's low bid of \$239,991.32, terms net 30, payable as follows:

(a) \$191,993.00 from the Special Projects Fund 210, Agency 030, Organization 3174, and Object 5580;

(b) \$47,998.32 from the Capital Equipment Fund 250, Agency 015, Organization 2008, Object 5580, Project CE250-E803.

Resolution 08-0452 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized to accept an Edward Byrne memorial justice assistance grant from the United States department of justice, bureau of justice

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

assistance, office of justice programs, in the amount of \$18,315 to be deposited in Fund 215, Agency 200, Organization 2283, Revenue Source 4209-02, and to be used for the St. Louis County drug court and for equipment and training, and to execute all documents related thereto.

FURTHER RESOLVED, that said officials are authorized to enter into a memorandum of understanding to grant \$6,000 from said fund to St. Louis County to support the county drug court.

Resolution 08-0465 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED, that pursuant to the requirements of Minnesota Statutes Section 645.021, Subd. 3, the Duluth City Council hereby approves Laws of Minnesota 2008, Chapter 198, amending Laws of Minnesota, 1984, Chapter 390, Section 1, to correct errors in the legal description of the property included in the Spirit Mountain recreation area.

Resolution 08-0414 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to terminate an agreement with the Jewish Educational Center bearing City Contract No. 9983 and an agreement with Temple Israel of Duluth bearing City Contract No. 11645 and to execute any documents necessary thereto.

Resolution 08-0419 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to settle its claim against Bayfront Blues Festival, Inc., for a total amount of \$5,000 arising out of a contract dispute and resulting in an action filed in St. Louis County district court and entitled City of Duluth v Bayfront Blues Festival, Inc., St. Louis County File No. 69-DU-CV-07-1485; funds to be deposited in Fund 237, Agency 015, Revenue Source 4623.

Resolution 08-0424 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an amended and restated agreement for parking services, substantially in the form of that on file in the office of the city clerk as Public Document No. 08-0721-45, with the Duluth Police Explorer Post 244 (the Explorers) and DEDA for parking on DEDA-owned and city-owned lots at Bayfront during the Bayfront Blues Festival, 75 percent of the net proceeds to be retained by the Explorers and 25 percent of the net proceeds from city-owned Lot A to be deposited into Fund 237-015-4623, and 25 percent of the net proceeds from DEDA-owned Lot C to be paid to DEDA.

Resolution 08-0425 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

WHEREAS, the playing of bocce has a long and honored history in the city of Duluth and is recreational activity shared by many citizens of the city; and

WHEREAS, Joe Maio played a major role in the development of the Duluth Bocce Club and in furthering the development of the sport in the city.

RESOLVED, that the bocce courts at Wheeler Field are hereby renamed as the Art Anselmo-Joe Maio Bocce Courts.

Resolution 08-0448 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to execute and implement a contract in substantially the form of that on file with the city clerk as Public Document No. 08-0721-46, between the city, Bayfront Blues Festival, Inc., and DEDA for years 2008, 2009 and 2010, for annual base rate of \$20,000 in 2008 and \$25,000 in 2009 and 2010, and other consideration, to be deposited in Bayfront Festival Park fund.

Resolution 08-0456 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

The following resolutions were also considered:

RESOLVED, that the proper city officials are authorized to enter into an amended and restated JOBZ business subsidy agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 08-0721-39 with IKONICS Corporation (qualified business) related to property located at 2404 Commonwealth (the former Atlas Cement Plant site.)

Resolution 08-0416 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Fedora -- 1

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a contamination cleanup grant from the Minnesota department of employment and economic development (DEED) in the amount of \$579,153 and to execute Grant Agreement on file with the clerk as Public Document No. 08-0721-48 in connection therewith. Such funds shall be deposited into City Fund 255.

FURTHER RESOLVED, that the required local match to the granted funds, having a value of no less than 25 percent of cleanup costs and estimated at a total value of \$193,051, shall be provided by the Duluth economic development authority (DEDA) from its operating Fund 860.

BE IT FURTHER RESOLVED, that the city certifies that it will comply with all applicable laws and regulations as stated in all contract agreements it accepts.

Resolution 08-0432 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Fedora -- 1

Approved July 21, 2008

DON NESS, Mayor

- - -

Resolution 08-0455, amending Resolution 07-0723 adopting license, permit and fee charges for 2008; modifying certain fees and charges pertaining to Fire Code enforcement, was introduced by Councilor Gilbert.

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

- - -

Resolution 08-0482, by councilors Gilbert and Anderson, requesting a study on the public safety impact resulting from the reduction in the number of fire rigs, was introduced for discussion.

Councilor Fedora moved to amend the resolution by adding in paragraph (a) prior to the word "assessment," the word "independent," which motion was seconded and carried unanimously as a friendly amendment.

Mayor Ness noted that any delay with an assessment will only delay any cost savings.

Ms. Potswald reviewed at length the results of meeting with the fire department regarding the costs associated with overtime, including a prior assessment, that was done regarding removing a fire rig. She noted that an independent assessment will only delay any cost savings, plus there will be the cost for the independent analysis.

Councilor Fedora moved to amend the resolution by deleting subparagraph (c), which motion was seconded and discussed. He felt that this resolution would "ham string" the mayor in making the decisions to get the city on the right path.

Councilors Krause, Gilbert and Cuneo expressed their opposition to the amendment for reasons of: funds are being spent for other areas where there is no funding; this resolution is to give a clear signal where the council is coming from on budget cuts and have not been convinced that taking this rig out of service is the most appropriate decision.

The mayor and councilors discussed the issue at length and the consequences of the resolution.

Councilor Fedora's amendment failed upon the following vote:

Yeas: Councilor Fedora -- 1

Nays: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Councilor Stauber opposed the resolution because he felt that the council should not be telling the mayor how to do his job.

Resolution 08-0482, as amended, was adopted as follows:

BY COUNCILORS GILBERT AND ANDERSON:

RESOLVED, that the council finds as follows:

(a) The city council approved Resolution 08-0412, requesting the administration to work with the fire department to consider options for helping to balance the budget; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

(b) The parties did meet to consider options, but the administration still plans to take the Downtown fire rig out of service effective August 1, 2008; and

(c) The administration has not provided the council with an assessment of the impact of public and firefighter safety as a result of taking the Downtown rig out of service.

RESOLVED FURTHER,

(a) That the council requests from the administration an independent assessment of the impact on public and firefighter safety as a result of taking the Downtown rig out of service, as well as the impact on compliance with OSHA standards and National Fire Protection Association (NFPA) standards, prior to taking the rig out of service; and

(b) That assuming a negative impact on public and firefighter safety, the council requests that the administration not take the rig out of service; and

(c) That if the administration does take the rig out of service in 2008, then the council expresses its intent to fund reinstatement of the Downtown fire rig in the 2009 budget to be approved by the council.

Resolution 08-0482, as amended, was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause and President Reinert -- 7

Nays: Councilors Fedora and Stauber -- 2

Approved July 21, 2008

DON NESS, Mayor

- - -

Resolution 08-0417, authorizing the proper city officials to enter into a contract with California Skateparks, Inc., for the contract administration and construction of the Duluth skateboard park in the amount of \$131,000, was introduced by Councilor Krause for discussion.

Terry Groshong, acting city architect, reviewed the financing sources, noting that there are no general fund dollars and the scope of the project.

Councilor Krause opposed the resolution because of the financial conditions of the city and already existing structures and parks being neglected.

Resolution 08-0417 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with California Skateparks, Inc., (Public Document No. 08-0721-47) for contract administration and Phase I construction of the Duluth skatepark at Wheeler Field, in accordance with its low specification bid of \$131,000 payable out of Capital Fund 450, Department/Agency 030, Object 5530, CP 2003-C215.

Resolution 08-0417 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved July 21, 2008

DON NESS, Mayor

- - -

Resolution 08-0429, denying a request to amend Chapter 50 of the Duluth City Code, 1959, as amended, Zoning District Map No. 40 as contained in the Appendix to Chapter 50, to provide for the reclassification from S, suburban, to R-1-b, one family residential, for property located at 2516 Woodland Avenue (Forest Hill Cemetery), was introduced by Councilor Stauber.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Councilor Stauber moved to table the ordinance, so it coincides with consideration of the companion ordinance, which motion was seconded and unanimously carried.

- - -

Resolution 08-0410, accepting a grant from the Minnesota department of natural resources for the construction of the Lakewalk East trail extension phase iii in the amount of \$100,000, was introduced by Councilor Fosle for discussion.

Councilor Krause opposed the resolution due to the fact that the city will have to fund the city's part of the match and then maintain it for 20 years.

Jim Benning, public works and utilities department director, noted that the local funding for the grant comes from another grant source.

Resolution 08-0410 was adopted as follows:

The city council finds as follows:

(a) That the city of Duluth has applied to the Minnesota department of natural resources for a grant from the regional trails program for the construction of the Lakewalk East trail extension Phase III, from the end of Phase II of the existing trail at 47th Avenue East to approximately 60th Avenue East, S.P. 118-090-015, City Project No. 0569TR;

(b) The grant has been approved and the amount of the grant has been determined to be \$100,000.

RESOLVED, that the city of Duluth does hereby accept said grant and authorizes the proper city officials to execute and implement the grant agreement wherein the city agrees to maintain the facilities, trail and equipment for no less than 20 years and requires the city of Duluth to provide matching funds equal to the grant amount.

FURTHER RESOLVED, that Wayne Parson, city auditor, having an address of 411 West First Street, Room 107 City Hall, Duluth, Minnesota 55802, is hereby designated as fiscal agent to receive said grant and grant monies received hereunder shall be deposited into the Capital Improvement Fund 0450, Agency 035, Object 5530, City Project No. 0569TR.

Resolution 08-0410 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved July 21, 2008

DON NESS, Mayor

- - -

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 a portion of sewer basin numbers 13, 14, 15, 16 and 17 described herein be added to sewer basins 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, part of 22, 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, that portion of sanitary sewer basin numbers 13, 14, 15, 16 and 17 are hereby designated as one of the 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 basin is

therefore designated as a district 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 08-0441 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved July 21, 2008

DON NESS, Mayor

- - -

RESOLVED, that the Duluth City Council hereby makes the following findings:

(a) That communities across the United States have designated August 5, 2008, as a National Night Out to celebrate community and neighborhood awareness and unity; and

(b) That 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.

FURTHER RESOLVED, that the Duluth City Council wishes to express its support for the National Night Out and the goals and purposes behind it.

FURTHER RESOLVED, that the Duluth City Council hereby expresses its support for the 25th Anniversary National Night Out on August 5, 2008, 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 08-0415 was unanimously adopted.

Approved July 21, 2008

DON NESS, Mayor

- - -

Resolution 08-0450, establishing new parking meter rates, was introduced by Councilor Cuneo for discussion.

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

Dianna VanRatenau spoke in support of the parking meter increase for reasons of: parking ramp increases have driven workers to use the meters that could have been used for customers; noting the huge inequity between the ramps and meters and that their rates should be looked at together.

Resolution 08-0450 was adopted as follows:

RESOLVED, that pursuant to the authority contained in Section 33-108 of the Duluth City Code, 1959, as amended, the parking meter rates applicable to parking meters in the Downtown, Lincoln Park, hospital district and Canal Park areas of the city are hereby modified to those set forth on Public Document No. 08-0721-49, which is on file in the office of the city clerk.

Resolution 08-0450 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause and President Reinert -- 8

Nays: Councilor Stauber -- 1

Approved July 21, 2008

DON NESS, Mayor

- - -

Resolution 08-0454, establishing new parking meter zones in various locations and establishing time limits and rates therefore, was introduced by Councilor Cuneo for discussion.

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

Tony Boen, president of the Canal Park Business Association, Anita Zager, vice president of the Canal Park Business Association and Scott Miller, a Canal Park merchant, opposed the resolution for reasons of: Canal Park brings in tourists and revenue to the city and by installing meters, it will hurt the city; the Canal Park business climate is a struggle for nine months of the year, where meters will put businesses at risk; meters will drive customers away and not increase revenue; in the lots at 4:30 p.m. today, there was plenty of parking in the exiting ramps; in Spirit Valley there are no meters and it is a thriving business district and increased enforcement will be difficult to fund and higher violation fees should be set.

Mayor Ness outlined his reasoning for this proposal.

Councilors Krause, Gardner, Stauber and Gilbert opposed the resolution for reasons of: lack of traffic flow/lanes on Second Street during the winter months; those living in apartments on Second Street having a parking spot; the existing two hour parking enforcement needs to be revamped; Second Street meters was voted down a couple years ago; Second Street is the emergency route from the west to the two hospitals; the city should not be telling the Canal Park merchants that meters will be better for their business and consideration should be given to not having enforcement during the nine quiet months of the year.

President Reinert moved to split the resolution into (a) - Canal Park and Lake Avenue areas, and (b) - Second and Third street areas, which motion was seconded and carried as follows:

Yeas: Councilors Anderson, Cuneo, Fedora, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: Councilor Fosle -- 1

President Reinert moved to table Resolution 08-0454(a), which motion was seconded failed upon the following vote:

Yeas: Councilors Cuneo, Gardner, Stauber and President Reinert -- 4

Nays: Councilors Anderson, Fedora, Fosle, Gilbert and Krause -- 5

Resolution 08-0454(a) was adopted as follows:

RESOLVED, that pursuant to the authority contained in Section 33-108 of the Duluth City Code, 1959, as amended, the following parking meter zones are hereby established, and the following time limits and rates are established therefore:

Location	Time Limits	Rates
West side of Canal Park Drive between Railroad Street and Morse Street	2 hours; 8:30 AM to 5:30 PM, Monday through Saturday	\$.25/20 min.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Both sides of Lake Avenue from Railroad Street to Morse Street	2 hours; 8:30 AM to 5:30 PM, Monday through Saturday	\$.25/20 min.
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Resolution 08-0454(a) was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gilbert and Krause -- 6

Nays: Councilors Gardner, Stauber and President Reinert -- 3

Approved July 21, 2008

DON NESS, Mayor

- - -

Councilor Krause moved to strike the Second Street portion from Resolution 08-0454(b), which motion was seconded and failed as follows:

Yeas: Councilors Fedora, Krause and Stauber -- 3

Nays: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert and President Reinert -- 6

Resolution 08-0454(b) was adopted as follows:

RESOLVED, that pursuant to the authority contained in Section 33-108 of the Duluth City Code, 1959, as amended, the following parking meter zones are hereby established, and the following time limits and rates are established therefore:

Location	Time Limits	Rates
North side of Second Street from Fourth Avenue West to Fourth Avenue East	12 hours; 8:30 AM to 5:30 PM Monday through Saturday	\$.25/40 min.
North side of Third Street from Sixth Avenue East to Seventh Avenue East	12 hours; 8:30 AM to 5:30 PM Monday through Saturday	\$.25/40 min.

Resolution 08-0454(b) was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle and President Reinert -- 5

Nays: Councilors Gardner, Gilbert, Krause and Stauber -- 4

Approved July 21, 2008

DON NESS, Mayor

- - -

Resolution 08-0457, alienating certain city property on Park Point and authorizing the sale of same., was introduced by Councilor Anderson.

Councilor Anderson moved to remove the resolution from the agenda, as per the request from the administration, which motion was seconded and unanimously carried.

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Resolution 08-0458, accepting \$20,000 from the Harrison Community Club to apply to the deductible for reconstruction of Harrison Community Center, was introduced by Councilor Anderson.

Councilor Anderson moved 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:

INTRODUCED BY COUNCILOR STAUBER

08-053 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 40 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO R-1-B, ONE FAMILY RESIDENTIAL, FOR PROPERTY LOCATED AT 2516 WOODLAND AVENUE (FOREST HILL CEMETERY).

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INTRODUCED BY COUNCILOR FOSLE

08-054 - AN ORDINANCE AMENDING AND REPLACING CHAPTER IX OF THE DULUTH CITY CHARTER, PERTAINING TO LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS.

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INTRODUCED BY COUNCILOR CUNEO

08-055 - AN ORDINANCE AUTHORIZING CHARGES FOR EMERGENCY SERVICES AND COLLECTION THEREOF ADDING A NEW ARTICLE IV TO CHAPTER 21 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Ben Gasner and Eric Simonson , representing Local 101, opposed the ordinance for reasons of: citizens should not be put in the spot of deciding to call the fire department or not; the ones that need fire service cannot afford it the most and to reduce public safety is a mistake.

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BY COUNCILOR ANDERSON

08-052 - AN ORDINANCE AMENDING SECTION 34-13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO GRAFFITI AND ITS REMOVAL.

- - -

INTRODUCED BY COUNCILOR ANDERSON

08-056 - AN ORDINANCE AMENDING SECTION 35-9 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PROVIDING FOR SPECIAL EVENT PERMITTING IN PUBLIC PARKS AND PUBLIC RECREATION AREAS AND AMENDING SECTION 35-9.3 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PROVIDING FOR THE HOURS OF OPERATION OF PUBLIC PARKS AND PUBLIC RECREATION AREAS.

- - -

BY COUNCILOR ANDERSON

08-057 - AN ORDINANCE AMENDING SECTION 35-9.3 OF THE DULUTH CITY CODE, 1959, AS AMENDED, LIMITING THE AUTHORITY OF THE DIRECTOR OF PARKS AND RECREATION TO DETERMINE THE HOURS FOR SPECIAL EVENTS AT BAYFRONT FESTIVAL PARK RECREATION AREA.

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

Craig Samborski and Jared Johnson spoke in support of the ordinance, noting that: 10:00 p.m. closings restricts certain acts that cannot be booked, such as Bob Dylan and Paul Simon; by limiting the curfew to 10:00 p.m., the city is diminishing the appeal to attract young people to the community and in Sioux Falls, South Dakota, a city of similar size with the same goal of keeping young adults to reside there, concerts can go to 11:00 p.m and with a special permit, they can go to midnight.

Mayor Ness addressed his concerns relative to the noise that comes from events and that the council's role is the policy maker on this issue.

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The following entitled ordinance was read for the second time:

BY COUNCILOR STAUBER

08-048 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW SECTION 50-1.50.1 DEFINING THE RESIDENTIAL PARKING AREA, AMENDING SECTION 50-30 TO ESTABLISH THE AUTHORIZED PARKING AREAS ON A RESIDENTIAL LOT AND CREATING A VARIANCE FROM SUCH REGULATION.

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

Joe Martin expressed support for the ordinance, noting the amount of vehicles that are parked on lawns and the increase in the number of rentals.

Al Makynen felt the blight of front yard parking has been increasing and that the original ordinance passed in 2003 has not been enforced. He added that the clarification of this ordinance, requested by the police, is needed.

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

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The meeting was adjourned at 10:35 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9920

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-C, ONE FAMILY RESIDENTIAL, TO C-5, PLANNED COMMERCIAL DEVELOPMENT, PROPERTY LOCATED AT 114 WEST MYRTLE STREET, BETWEEN BASSWOOD AVENUE AND HUGO AVENUE (STEVE LINDBERG).

The city of Duluth does ordain:

Section 1. That Lots 4 and 5, Block 31, Duluth Heights Sixth Division, be reclassified from R-1-c, residential, to C-5, commercial, and 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)

[see map at end of meeting]

(Reference File No. 08044)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 31, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed July 21, 2008

Approved July 21, 2008

DON NESS, Mayor

- - -

ORDINANCE NO. 9921

BY COUNCILORS STAUBER, GARDNER AND ANDERSON:

AN ORDINANCE AUTHORIZING LICENSING OF UNLEASHED DOGS TO USE DESIGNATED AREAS AND TRAILS AMENDING SECTION 6-36 OF THE DULUTH CITY CODE, 1959, AS AMENDED AND ADDING NEW SECTIONS 6-36.1, 6-36.2 AND 6-36.3 TO ARTICLE IV OF CHAPTER 6 THEREOF.

The city of Duluth does ordain:

Section 1. That Section 6-36 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 6-36. Running at large prohibited.

No person shall suffer or permit any animal owned or controlled by that person to run at large within the city. Except as authorized in this Article, an animal shall be considered to be at large if:

(a) The animal departs from the private property of the owner or other person caring for that animal and is not under physical control of the owner, a member of the immediate family or other responsible person caring for that animal. If the animal is under control by a leash, the leash must be of suitable strength not exceeding six feet in length. Persons controlling animals with leash devices capable of extending leash lengths greater than six feet shall retract the leash length so it shall not exceed six feet in length when being approached or approaching within ten feet of other persons and/or other animals;

(b) The animal remains on the private property of the owner or other person caring for that animal and the animal is not effectively contained within a fenced area (including an area surrounded with an underground electronic fencing system), or when the animal is on any unfenced area or lot abutting a street, alley, public park, school grounds or public place without being effectively restrained by a chain or metallic cable secured to a fixed object;

(c) An animal is not in violation of this Section if:

(1) Such animal remains on the private property of the owner or other person caring for that animal and a competent person is outside with the animal and that animal is immediately obedient to that person's command;

(2) Such animal is picketed in accordance with this Chapter;

(3) Such animal is confined in a shipping receptacle or a closed vehicle;

(4) Such animal is actually participating in a bona fide field trial, animal show or exhibition, training school, obedience school or similar activity;

(5) Such animal is police animal engaged in activities by the city;

(6) Such animal is a tracking animal and is being used by or with the permission of the city;

(7) Such animal is a certified service animal serving a disabled person;

(d) Underground electronic fencing system;

(1) An underground electronic fencing system used to restrain an animal on private property shall keep an electronically restrained animal a minimum distance of ten feet from any adjacent public sidewalk, public alley or public street;

(2) The property owner or person in control of the property shall be required to erect and maintain a sign alerting the general public that an animal is contained on the posted property by an underground electronic fencing system. The sign shall not be smaller than six inches by nine inches in size and not larger than two feet by one foot. The written warning language on the sign shall not be smaller than three quarters of an inch in height. The sign shall be conspicuously placed as to clearly inform the approaching general public of the underground electronic fencing system;

(3) An animal designated as being a dangerous animal or a potentially dangerous animal under Article IX of this chapter and/or under Minnesota Statute 357.50 shall not be primarily restrained by an underground electronic fencing system;

(4) The property owner or person in control of the property operating an underground electronic fencing system for the purpose of restraining an animal shall be required to maintain the underground electronic fencing system in an effective and proper working order;

(e) A person using a fencing system as the primary means of restraint for an animal may not continue to use the fencing system as the primary means of restraint for that animal if that animal's behavior results in:

(1) Two convictions within a 12-month period for violating any of the provisions set forth in Section 6-32, referencing 6-31(b)(3), 6-34(a), 6-35 and/or 6-36, of this Code; or

(2) One conviction for violating any of the provisions set forth in Section 6-32, referencing 6-31(b)(3), 6-34(a), 6-35, 6-36 or 6-92(a), of this Code and evidence the animal inflicted injury to a human or to another domestic animal.

Section 2. That Article IV of Chapter 6 of the Duluth City Code, 1959, as amended, is hereby amended to add Section 6-36.1 to read as follows:

Sec. 6-36.1. Exception--licensed dogs in permitted locations.

Notwithstanding the provisions of Section 6-36 above, a dog, otherwise running at large, which has been licensed under this Chapter, for which an off-leash license has been issued under this Section, which is at the time wearing a current tag or other means of identification issued by the city clerk evidencing the issuance of said off-leash license and which is located on an area or trail licensed pursuant to Section 6-36.2 or Section 6-36.3 below shall not be considered to be running at large;

(a) Any person owning a dog may, upon application therefor and payment of the fee established pursuant to Paragraph (b) below, be issued an off-leash license by the city clerk authorizing the owner's dog to be unrestrained by chain or leash in an off-leash area or on an off-leash trail in conformance with the requirements of this Article except as hereinafter provided for. A single license shall be issued for each dog. Licenses issued under this paragraph shall be effective from the date of issuance through December 31 of the current year. The city clerk shall provide a highly visible tag or other means of identification with each license which shall be worn at all times by any dog using any off-leash area or any off-leash trail when said dog is off-leash;

(b) Fees to be charged to residents and nonresidents for the issuance of each off-leash license for each dog so licensed to use city-designated off-leash areas and off-leash trails shall be set in accordance with Section 31-6(a) of this Code;

(c) Such off-leash licenses shall be issued only upon proof that the dog to be licensed has received a rabies vaccination which is current;

(d) No such off-leash license shall be issued for any dog which is deemed to be a dangerous animal or a potentially dangerous animal under Article IX of this Chapter or which is a dangerous or potentially dangerous dog as defined in Minnesota Statutes Section 347.50 or for which a license has been revoked within two years for violation of this Article;

(e) No dog licensed under this Section shall be permitted to use or be in any off-leash area or any off-leash trail in violation of any rules applicable to the use of said area or trail promulgated in conformance with the requirements of this Article;

(f) All dogs using or located in any off-leash area or any off-leash trail shall be under the control of the owner or of a person authorized by the owner to be in control of said dog. No more than three dogs licensed under this Section shall be permitted to be unleashed on any off-leash area or off-leash trail under the control of any one person;

(g) No dog in heat shall be allowed to be unrestrained by chain or leash in any off-leash area or off-leash trail;

(h) Upon the direction of any peace officer, any animal control officer, or any other person duly authorized by the city, the owner or person authorized by the owner to be in control of any dog located in or on any off-leash area or off-leash trail shall restrain said dog by chain or leash and shall remove said dog from said area or trail;

(i) The off-leash license issued for any dog may be revoked by the chief administrative officer upon proof that it was improvidently issued in violation of this Article or upon proof that any owner or any person authorized by the owner to be in control of such dog has violated the requirements of this Article more than once in any 12 month period. The clerk shall mail notice of any revocation to the owner for the affected dog's license at the owner's address as it appears on the owner's application. Within ten days of mailing of such notice of revocation, the applicant therefor can appeal said revocation by delivering to the city clerk in writing a notice of appeal to the animal humane board. The decision of the animal humane board shall be final.

Section 3. That Article IV of Chapter 6 of the Duluth City Code, 1959, as amended, is hereby amended to add Section 6-36.2 to read as follows:

Sec. 6-36.2. Designation of off-leash trails or off-leash areas on public property.

The city council, by resolution, may designate trails or areas on public property it deems appropriate for such designation as off-leash trails or off-leash areas upon such terms and conditions as it deems to be in the public interest. Dogs having a current off-leash license may use said trails without being restrained by chain or leash.

(a) The city council may by resolution designate any public trail or area as an off-leash trail or off-leash area. Said resolution shall be accompanied by a map showing the location of said trail or area;

(b) The council may by resolution establish rules and regulations applicable to the use of any trail or area designated as an off-leash trail or off-leash area, said rules and regulations to be effective upon adoption;

(c) The council may by resolution amend or modify any rules or regulations established pursuant to paragraph (b) above as it shall from time to time deem appropriate in the public interest;

(d) The city shall post and maintain copies of the current rules and regulations applicable to any such trail on waterproof materials or in waterproof, transparent containers at all natural entry points to said trail.

Section 4. That Article IV of Chapter 6 of the Duluth City Code, 1959, as amended, is hereby amended to add Section 6-36.3 to read as follows:

Sec. 6-36.3. Designation of off-leash areas on private property.

The city council, by resolution, may designate areas it deems appropriate for such designation as off-leash areas on private property upon such terms and conditions as it deems to be in the public interest. Upon consent of the property owners of the designated off-leash areas, dogs having a current off-leash license may use said areas without being restrained by chain or leash.

(a) Applications for the approval of any area as an off-leash area shall be in writing and shall be accompanied by a scaled drawing referencing lot lines, streets or other identifiable monuments allowing the area affected to be established with certainty and by the application fee provided for in paragraph (b) below. If any of the property affected by the application is owned by any person other than the applicant, the application shall be accompanied by the written consent of the owner or owners of the property in recordable form. All applications shall be referred to the city assessor for a determination that this requirement has been fulfilled, based on the evidence in the county auditor's records;

(b) Fees to be charged for the issuance of each off-leash area designation shall be set in accordance with Section 31-6(a) of this Code;

(c) The council by resolution may establish rules and regulations applicable to the use of any area designated as an off-leash area and the resolution so designating any such area shall only be effective if and when the applicant acknowledges receipt of a copy of such rules and regulations and has executed a written commitment to conform the use of the off-leash area to the terms of said rules and regulations and as the same may, from time to time, be amended;

(d) The council may, by resolution, amend or modify any rules or regulations established pursuant to paragraph (c) above as it shall from time to time deem appropriate in the public interest. Upon approval of any such amended rules or regulations, the city clerk shall mail notice of such amended rules and regulations to the applicant for such off-leash area at applicant's address as it appears on the applicant's application. Said amended or modified rules and regulations shall be effective 30 days after they are so mailed to said applicant;

(e) The applicant for any such off-leash area designation shall post and maintain copies of the current rules and regulations applicable to any such area on waterproof materials or in waterproof, transparent containers at all natural entry points to said area and every 300 feet around the perimeter of said area;

(f) The city council may revoke the designation of any designated off-leash area if it determines that by the nature or location of the area or by reason of its operation, it poses an unreasonable danger or nuisance to the public. Any such revocation shall be accompanied by findings of fact upon which the determination of unreasonable danger or nuisance are based.

Section 5. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: August 31, 2008)

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

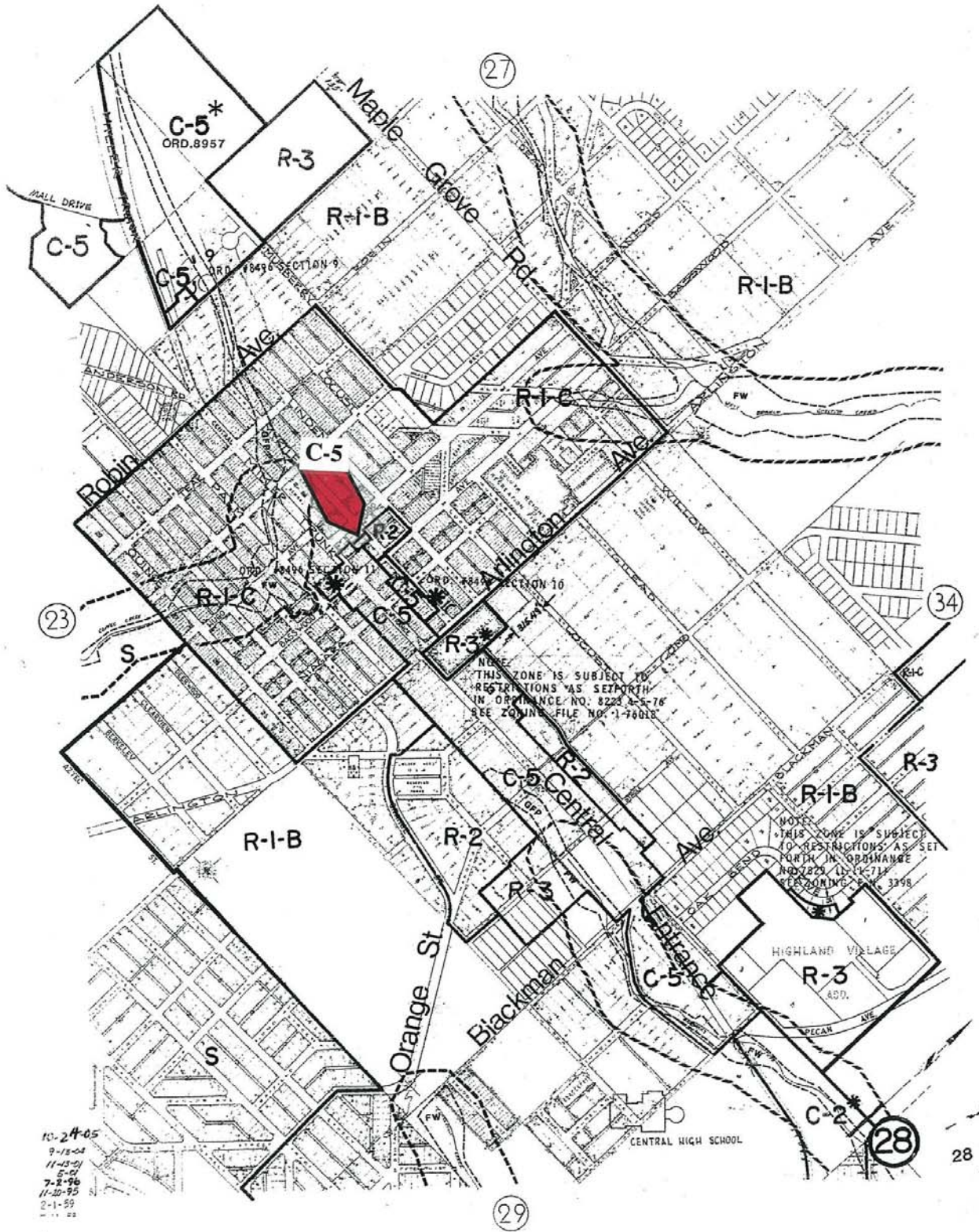
Yeas: Councilors Anderson, Cuneo, Fedora, Gardner, Gilbert, Stauber and President Reinert -- 7

Nays: Councilors Fosle and Krause -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 21, 2008
Approved July 21, 2008
DON NESS, Mayor

- - -



OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, July 24, 2008, 5:10 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert and Stauber -- 6

Absent: Councilors Fedora, Krause and President Reinert -- 3

- - -

Councilor Stauber presided over the meeting in the absence of President Reinert.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0724-01 The PFM Group: (a) Bid results; (b) Official statement, regarding the proposed bond sales (08-0461R, 08-0462R and 08-0472R). -- Received

- - -

MOTIONS AND RESOLUTIONS

Resolution 08-0461, providing for the issuance, sale and delivery of \$2,320,000 general obligation street improvement bonds, Series 2008C, of the city of Duluth, Minnesota; establishing the terms and form thereof; creating a bond fund therefor; and awarding the sale thereof; Resolution 08-0462, providing for the issuance, sale and delivery of \$1,475,000 general obligation Aerial Lift Bridge improvement bonds, Series 2008B, of the city of Duluth, Minnesota; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof; and Resolution 08-0472, providing for the issuance, sale and delivery of \$40,665,000 general obligation DECC improvement bonds, Series 2008A; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof, were introduced by Councilor Gilbert for discussion.

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

Jessica Cameron, representing the PFM Group, reviewed the market volatility and the results of the bids for the three bond issues.

Resolutions 08-0461, 08-0462 and 08-0472 were adopted as follows:

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 the resolution adopted on the following date, ordered street improvements to certain streets, avenues and parkways set forth below (the "2008 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Order in Resolution No.	Date Resolution Passed	Assessable Cost/CDBG Funds	Project Description
07-0262R	4/23/2007	\$130,027	Fairmont North
		187,168	Morley Heights
		251,442	Lakeside - Rockview

C. The city council hereby determines to finance \$2,320,000, through the issuance of general obligation street improvement bonds, for payment of costs of the 2008 Street Improvement Program.

1.02 Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$2,320,000 General Obligation Street Improvement Bonds, Series 2008C, to be dated as of the date of delivery as the date of original issue (the "Bonds") for financing the 2008 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 Wachovia Securities, LLC of St. Louis, Missouri (the "Purchaser"), to purchase the Bonds at a cash price of \$2,299,120, 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
2010	\$125,000	4.000%
2011	125,000	4.000%
2012	130,000	4.000%
2013	130,000	4.000%
2014	135,000	4.000%

Year	Amount	Interest Rate
2015	140,000	4.000%
2016	145,000	4.000%
2017	150,000	4.000%
2018	155,000	4.000%
2019	165,000	4.200%
2020	170,000	4.375%
2021	175,000	4.500%
2022	185,000	4.600%
2023	190,000	4.700%
2024	200,000	4.750%

2.02 A. The Bonds maturing in the years 2010 through 2017 shall not be subject to optional redemption and prepayment before maturity, but those maturing in the year 2018 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2017, 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,

2009. 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 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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 2008C

R-__ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	August __, 2008	

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, 2009. 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 \$2,320,000, 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 July 24, 2008 (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 2010 through 2017 are not subject to redemption before maturity, but those maturing in the year 2018 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2017, and on any date thereafter, in whole or in part, and 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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, 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
8/___/08	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 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 \$2,294,547.00 into the 2008 street improvement account (the "2008 Street Account") within the street improvement program fund (Fund 440). The proper City officers are authorized and directed to pay out of the 2008 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 2008 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 2008 Street Improvement Program in an amount which, together with the proceeds of federal grants to the City for such improvement projects, is not less than 20% of the costs of such projects financed by the proceeds of the Bonds. The city council further covenants and agrees that, with due diligence, it will complete the special assessment process, including any and all supplemental assessments or reassessments that may be required to lawfully assess the benefitted property.

3.03 A separate account within the special assessment debt service fund maintained by the City is hereby created and is designated the "2008 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 2008 Improvement Bond Account shall be paid from the proceeds of the Bonds capitalized interest in the amount of \$0, plus the amount of accrued interest on the Bonds, if any, plus \$4,573.00 of unused discount, 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Levy Year	Collection Year	Gross Tax Levy	Estimated Special Assessment Revenue	Net Tax Levy
2007	2008	\$ 50,031	0	*\$ 50,031
2008	2009	234,762	\$48,543	*186,219
2009	2010	229,512	53,469	176,043
2010	2011	229,512	52,269	177,243
2011	2012	224,052	51,069	172,983
2012	2013	223,842	54,869	168,973
2013	2014	223,422	53,469	169,953
2014	2015	222,792	52,069	170,723
2015	2016	221,952	55,669	166,283
2016	2017	220,902	54,069	166,833
2017	2018	224,892	52,469	172,423
2018	2019	222,866	55,789	167,077
2019	2020	220,306	53,820	166,486
2020	2021	222,537	51,795	170,742
2021	2022	218,852	54,725	164,127
2022	2023	219,975	52,375	167,600
*2007 anticipatory levy equaled \$236,250				

Said levies are such that if collected in full they, together with the estimated receipts of special assessments pledged for payment of principal and interest on the Bonds, will produce at least 5% in excess of the amount needed to meet when due the principal and interest on the Bonds.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that in each year while any Bonds issued hereunder remain outstanding, the city council 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 2008 Improvement Bond Account within the special assessment debt service fund. If the balance in the 2008 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 2008 Improvement Bond Account when the balance therein is sufficient.

3.05 Proceeds of the Bonds on deposit in the 2008 Street Account and 2008 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.

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 DECC Improvement Bonds,

Series 2008A (the "Series 2008A Bonds"), and General Obligation Aerial Lift Bridge Improvement Bonds, Series 2008B (the "Series 2008B Bonds"). The Bonds will not be paid out of substantially the same source as the Series 2008A Bonds or the Series 2008B Bonds; consequently the Bonds are a separate issue under Treasury Regulations Section 1.150-1(c).

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 08-0461 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner and Gilbert -- 5

Nays: Councilor Stauber -- 1

Absent: Councilors Fedora, Krause and President Reinert -- 3

Approved July 24, 2008

DON NESS, Mayor

- - -

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 Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475 and all other enabling statutes, the City is authorized to issue its general obligation bonds to provide the funds necessary to match state, private and federal

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

grants for projects within the City's boundaries, which bonds are to be payable from annual ad valorem taxes or other revenues of the City.

B. The city council has, by Ordinance No. 9886 adopted on February 11, 2008, authorized the issuance and sale of General Obligation Aerial Lift Bridge Improvement Bonds in an amount not to exceed \$1,475,000 for the purpose of providing the local match of grant funds from the State of Minnesota (Minnesota State Transportation Fund) authorized by Minnesota Laws 2005, Chapter 20, Section 18, Subd. 7, in the amount of \$1,000,000 (the "Grant") to pay part of the costs associated with restoration of the Aerial Lift Bridge located in the City (the "Project").

C. Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$1,475,000 General Obligation Aerial Lift Bridge Improvement Bonds, Series 2008B, to be dated the date of delivery, as the date of original issue (the "Bonds") to provide the City's match for the Grant for the Project.

D. 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. 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 Northland Securities, Inc. of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$1,463,200, 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 and shall bear interest at the annual rates stated as follows:

Year	Amount	Interest Rate
2010	\$125,000	3.00%
2011	130,000	3.10%
2012	135,000	3.50%
2013	140,000	3.50%
2014	145,000	4.00%
2015	150,000	4.00%
2016	155,000	4.00%

Year	Amount	Interest Rate
2017	160,000	4.10%
2018	165,000	4.20%
2019	170,000	4.30%

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, 2009. 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 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 AERIAL LIFT BRIDGE IMPROVEMENT BOND
SERIES 2008B

R-___

\$_____

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	August __, 2008	

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, 2009. 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 \$1,475,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, and is issued pursuant to Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475, the City Charter and other pertinent provisions of said statutes, Ordinance No. 9886, and a resolution adopted by the governing body of the City on July 24, 2008 (the "Resolution"), for the purpose of providing funds necessary to provide the local match for a state grant for restoration of the Aerial Lift Bridge located in the City, which obligations and interest thereon are payable from ad valorem taxes as described in the Resolution.

The Bonds are not subject to redemption prior to maturity.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

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

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

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

Attest:

City Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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
8/__/08	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 has created a separate construction account titled "Aerial Lift Bridge Project Account" within the Permanent Improvement Fund 0411, Agency 035, Object 5520, Project No. 0079TR, to which there shall be credited the proceeds of the Bonds in the amount of \$1,463,200, together with any additional funds, including monies from the Grant 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 Project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

3.02 A separate debt service account is hereby created and designated as the “2008 Aerial Lift Bridge 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 in the amount of \$-0-, plus capitalized interest in the amount of \$0.00, plus the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds, if any, 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	Gross Tax Levy
2008	2009	\$218,790
2009	2010	191,578
2010	2011	192,597
2011	2012	192,885
2012	2013	192,990
2013	2014	192,150
2014	2015	191,100
2015	2016	189,840
2016	2017	188,202
2017	2018	186,176

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 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. Such 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.

3.04 Proceeds of the Bonds on deposit in the Special Assessment Fund 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 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 comply with all federal rebate requirements which may apply if such spending test is not met.

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 DECC Improvement Bonds, Series 2008A (the "Series 2008A Bonds"), and General Obligation Street Improvement Bonds, Series 2008C (the "Series 2008C Bonds"). The Bonds will not be paid out of substantially the same source as the Series 2008A Bonds or the Series 2008C Bonds; consequently the Bonds are a separate issue under Treasury Regulations Section 1.150-1(c).

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 08-0462 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner and Gilbert -- 5

Nays: Councilor Stauber -- 1

Absent: Councilors Fedora, Krause and President Reinert -- 3

Approved July 24, 2008

DON NESS, Mayor

- - -

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475 and all other enabling statutes, the City is authorized to issue its general obligation DECC improvement bonds to provide the funds necessary to match state, private and federal grants for projects within the City's boundaries, which bonds are to be payable from annual ad valorem taxes or other revenues of the City.

1.02 The city council has, by Ordinance No. 9907 adopted on May 12, 2008, authorized the issuance and sale of General Obligation DECC Improvement Bonds (the "Bonds") of the City to finance a portion of the costs of capital improvements at the Duluth Entertainment Convention Center, which includes a new arena (the "Project"), in an amount not to exceed \$41,500,000.

1.03 Included within the Project, as proposed, was the replacement and improvement at the Duluth Entertainment Convention Center of the existing arena refrigeration equipment and ice floor which was constructed in 2007 and financed pursuant to a Government Lease - Purchase Agreement dated as of August 22, 2007 (the "Lease"), between the Duluth Entertainment and Convention Center Authority (the "Authority") and Wells Fargo Brokerage Services, LLC.

1.04 The Authority has requested and the City hereby agrees that the Lease be refinanced with proceeds of the Bonds to provide long-term financing of such improvements as a part of the Project.

1.05 The city council has solicited bids for the sale of the Bonds in the principal amount of \$40,635,000 and 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 \$40,440,289.02, 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	Year	Amount	Interest Rate
2010	\$ 50,000	4.000%	2022	\$ 1,310,000	4.500%
2011	70,000	4.000%	2023	1,470,000	4.500%
2012	100,000	4.000%	2024	1,640,000	4.625%
2013	410,000	4.000%	2025	1,825,000	4.750%
2014	480,000	4.000%	2026	2,025,000	4.750%
2015	555,000	4.000%	2027	2,240,000	4.750%

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Year	Amount	Interest Rate	Year	Amount	Interest Rate
2016	635,000	4.000%	2028	2,470,000	5.000%
2017	720,000	4.000%	2029	2,720,000	5.000%
2018	805,000	4.000%	2030	2,990,000	5.000%
2019	900,000	4.000%	2031	3,275,000	5.000%
2020	1,025,000	4.250%	2034	11,760,000	5.000%
2021	1,160,000	4.500%			

B. For purposes of complying with the provisions of Minnesota Statutes Section 475.54, the principal maturities of the Bonds are combined with the principal maturities of the City's \$1,240,000 General Obligation Capital Improvement Bonds, Series 2007C, the City's \$3,760,000 General Obligation DECC Improvement Refunding Revenue Bonds, Series 2007E dated December 13, 2007, the City's General Obligation Aerial Lift Bridge Improvement Bonds, Series 2008B, and the City's General Obligation Street Improvement Bonds, Series 2008C.

C. The Bonds maturing on February 1 in the year 2034 shall be subject to mandatory redemption prior to maturity pursuant to the requirements of this Section 2.01C 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:

For Bonds maturing on February 1, 2034 (the "2034 Term Bonds"):

Year	Principal Amount
2032	\$3,585,000
2033	3,910,000

The remaining \$4,265,000 stated principal amount of the 2034 Term Bonds shall be paid at maturity on February 1, 2034.

If less than such amount of the Term Bonds is outstanding on such payment date, the City shall pay the remaining balance of the Term Bonds then outstanding. The Bond Registrar shall select and call for redemption, in accordance with Section 2.02 hereof, from the Term Bonds the amounts specified above and the Term Bond selected by the Bond Registrar shall become due and payable on such date.

2.02 A. The Bonds maturing in the years 2010 through 2017 shall not be subject to optional redemption and prepayment before maturity, but those maturing or subject to mandatory redemption pursuant to Section 2.01C, in the year 2018 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2017, 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, 2009. 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 city 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 United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

2.11 The Bonds shall be printed or typewritten in substantially the following form:

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

CITY OF DULUTH
GENERAL OBLIGATION DECC IMPROVEMENT BOND, SERIES 2008A

R-____ \$ _____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	August __, 2008	

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, 2009. 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 \$40,635,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Laws 1974, Chapter 130, Chapter 475 of Minnesota Statutes and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on July 24, 2008 (the "Resolution"), and is issued for the purpose of providing a portion of the financing for the improvements to the Duluth Entertainment Convention Center and for payment of part of the interest cost of said bond issue. The principal hereof and interest hereon are payable primarily from food and beverage tax revenues and revenues of the Duluth Entertainment and Convention Center Authority as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred.

The Bonds maturing in the year 2034 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 2010 through 2018 are not subject to redemption before maturity, but those maturing in the year 2019 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2018, and on any date thereafter upon 30 days' notice, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

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

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

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

Date of Authentication: _____

Attest:

City Clerk

Mayor

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by 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
8/__/08	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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

(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 The City hereby creates Fund No. 436 entitled "2008 DECC Capital Improvement Fund" to which there shall be credited the proceeds for the Bonds in the amount of \$40,430,000, together with any additional funds which may be available and are appropriated for the payment of costs of the Project. This Fund shall be used only (i) to prepay the Lease on August 22, 2008;(ii) to pay or reimburse the Authority for the costs for the Project; (iii) to pay a portion of the interest on the Bonds through August 1, 2011, and (iv) to pay costs of issuance of the Bonds, as such payments become due.

3.02 The City imposes sales taxes on certain sales of food and beverages within the City pursuant to Minnesota Laws 1980, Chapter 511, Section 1, Subdivision 2 and Section 3, as amended, including Minnesota Laws 2008, Chapter 154, Article 5, Section 2 authorizing use of certain sales tax for the Project, and Section 42A-2(b) of the Duluth City Code (the "Food and Beverage Tax"). The Food and Beverage Tax on certain sales of food and beverages is 2.25% on gross receipts described in such sections. (Revenues received from 0.75% of the Food and Beverage Tax authorized by Section 42A-2(b) are herein referred to as the "0.75% Food and Beverage Tax.") Pursuant to Section 42A-2(b), the tax revenues from the 0.75% Food and Beverage Tax shall be used solely to pay principal of and interest on the Bonds (and any refunding bonds), the proceeds of which financed the Project.

3.03 A. On or prior to the delivery of the Bonds, the mayor and city clerk are hereby authorized and directed to execute on behalf of the City a pledge agreement (the "Pledge Agreement") with the Authority in substantially the form now on file with the city clerk as Public Document No. 08-0724-02(a). The execution and delivery of the Pledge Agreement by the mayor and the city clerk, in the form presented to the city council with such changes, omissions, insertions and revisions as the mayor deems advisable, is hereby approved, and the execution by such officers shall be conclusive evidence of such approval. All essential terms and conditions of the Pledge Agreement, including the Authority's pledge of DECC Lodging Tax, as hereinafter defined, and its other revenues for payment of a portion of the principal of and interest on the Bonds, when due, are hereby approved and adopted and made a part of this resolution.

B. The City imposes the 3% excise tax on lodging within the City pursuant to Section 54(D) of the city charter (the "Lodging Tax"). 65% of the Lodging Tax is dedicated to be used for the support and maintenance of the Arena-Auditorium of Duluth (i.e. the Duluth Entertainment Convention Center) (the "DECC Lodging Tax"). The Authority has requested and agreed in the Pledge Agreement that the City shall retain and use so much of the DECC Lodging Tax as is necessary, when combined with the 0.75% Food and Beverage Tax revenues, to pay the principal of and interest on the Bonds when due.

C. The City hereby creates Fund No. 281 (the "DECC Revenue Fund"), which is the City's fund to account for the Authority's revenues received pursuant to the Pledge Agreement. The City shall deposit the DECC Lodging Tax, and other revenues of the Authority paid pursuant to the Pledge Agreement, in the DECC Revenue Fund. Sums from the DECC Revenue Fund are available for the following purposes: (i) payment (including prepayments) of all principal of and interest on the Bonds; (ii) reimbursement to the Authority for payments of amounts by the Authority to the City in excess of those listed as "UMD Lease Revenue" and the "Authority Contribution" on Exhibit C of the Pledge Agreement, all in accordance with Section 2.2 of the Pledge Agreement; and (iii) payment of capital improvements to the Duluth Entertainment Convention Center, subject to approval of the city council.

3.04 A separate debt service account is hereby created and designated as the "G.O. DECC Improvement Bonds, Series 2008A Debt Service Account" (the "Debt Service Account") within the City's Debt Service Fund. The 0.75% Food and Beverage Tax shall be periodically deposited into the Debt Service Account in accordance with the policies established by the City's director of finance. There shall be transferred from the DECC Revenue Fund, amounts sufficient to provide 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 director of finance, in accordance with policies established by the city council. In addition to the amounts set forth above, the following amounts shall be deposited in the Debt Service

Account: (i) accrued interest, if any, received from the Purchaser upon delivery of the Bonds; (ii) any amount of additional interest permitted by Minnesota Statutes Section 475.56 paid by the Purchaser in the amount of \$10,289.02; (iii) all investment earnings on monies in the Debt Service Account and (iv) any collections of ad valorem taxes hereafter levied, if any, for the payment of the Bonds. The money in the Debt Service 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 the Debt Service Account, the city treasurer shall pay the same from the DECC Revenue Fund and then from any other funds of the City and said funds shall be reimbursed for such advance out of the Debt Service Account.

3.05 It is estimated that the 0.75% Food and Beverage Tax and the revenues under the Pledge Agreement, including the DECC Lodging Tax deposited in the DECC Revenue Fund and pledged and appropriated to said Debt Service Account, will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the city council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

3.06 The full faith and credit and taxing power of the City are irrevocably pledged for the prompt and full payment of the Bonds and the interest thereon, in accordance with the terms set forth in this resolution.

3.07 Proceeds of the Bonds on deposit in the 2008 DECC Capital Improvement Fund and in the Debt Service Account and amounts on deposit in the DECC Revenue Fund shall 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 of the Project and/or payment of the principal and interest on the Bonds when due. Investment income shall be credited to the fund or account from which the monies were invested.

Section 4. Refunding of Lease; Findings; Prepayment of the Lease.

4.01 A. Based on information from the Authority, it is hereby found and determined that the refunding of the Lease is consistent with the Lease and covenants and agreements, contained therein.

B. It is hereby found and determined that \$883,043.37 of the proceeds of the Bonds will be sufficient to pay (i) interest due on the Lease through August 22, 2008 (the "Prepayment Date"); and (ii) the termination value under the Lease on the Prepayment Date.

4.02 The Lease shall be prepaid in accordance with its terms and in accordance with the terms and conditions set forth in the form of notice of call for prepayment provided by the Authority, which terms and conditions are hereby approved and incorporated herein by reference.

Section 5. Defeasance.

5.01 When all the 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 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 Minnesota Statutes Section 475.67, 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 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 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 herein to have been taken.

6.03 The mayor and the city clerk are hereby authorized and redirected 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 7. Tax Covenants.

7.01 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.

7.02 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 Account (or any other City account which will be used solely 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 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.

7.03 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 Bonds with the requirements of Section 148 of the Code and any Treasury Regulations promulgated thereunder; to this end, the city shall:

(1) 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;

(2) 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");

(3) 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;

(4) 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;

(5) retain all records of the annual determinations of the foregoing amounts until six years after the Bonds have been fully paid; and

(6) 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 city council which is permitted by the Code or any Treasury Regulation promulgated thereunder.

C. 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.

7.04 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 Aerial Lift Bridge Improvement Bonds, Series 2008B (the "Series 2008B Bonds"), and General Obligation Street Improvement Bonds, Series 2008C (the "Series 2008C Bonds"). The Bonds will not be paid out of substantially the same source as the Series 2008B Bonds or the Series 2008C Bonds; consequently the Bonds are a separate issue under Treasury Regulations Section 1.150-1(c).

Section 8. 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 9. Declaration for Grant Agreement. The State of Minnesota has awarded a grant of \$38,000,000 to the Authority for payment of part of the costs of the Project. A requirement for such grant is that the owner of the real property on which the Project is located execute and record with the county recorder a declaration restricting the use of the property financed by such grant. The City is the owner of the real property being improved by the Project. The mayor and city clerk are authorized and directed to execute the declaration substantially in the form of the declaration currently on file in the office of the clerk as Public Document No. 08-0724-02(b).

Resolution 08-0472 was unanimously adopted.

Approved July 24, 2008

DON NESS, Mayor

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

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 28, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on May 22, 27 and 30, 2008, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0728-01 Housing and Redevelopment Authority of Duluth, by Dan Maddy, attorney, petition to vacate streets, alleys and utility easements throughout the Harbor Highlands neighborhood in Duluth Proper, Third Division. -- Assessor

08-0728-07 Minnesota department of transportation communication regarding the proposed Water Resource Management Ordinance special use permit and variance to Target Corporation for its store at 1902 Miller Trunk Highway (08-0466R and 08-0467R). -- Received

08-0728-08 The following communications regarding the proposed ordinance pertaining to keeping chickens in the city (08-020-O): (a) Susan Darley-Hill; (b) Janet Draper; (c) Nancy Nelson; (d) Barb Russ. -- Received

08-0728-09 The following communications regarding the proposed ordinances pertaining to the hours for special events at Bayfront Festival Park recreation area (08-056-O and 08-057-O): (a) Patricia Clure; (b) Tom Clure; (c) Bill Erzar; (d) Joe Koski; (e) Ollie Meyer; (f) Faye Sarvela. -- Received

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REPORTS FROM OTHER OFFICERS

08-0728-02 Assessor letter of sufficiency of petition to vacate the easterly portion of the utility easement in the vacated 27th Avenue East above Second Street abutting Lot 16, Block 3, Harrison's Division. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

08-0728-03 American Indian commission minutes of May 19, 2008, meeting. -- Received

08-0728-04 Community development committee minutes of May 27, 2008, meeting. -- Received

08-0728-05 Duluth airport authority minutes of June 17, 2008, meeting. -- Received

08-0728-06 Duluth legacy endowment fund advisory board minutes of: (a) May 22; (b) June 24, 2008, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

KL Lewis expressed concern on several safety issues on various streets in Duluth and safety concerns about the lighting in the skywalk.

- - -

Richard Hallfrisch expressed concern that the city is planning to resurface Anderson Road as the motorists are already speeding on the street and if the city fixes the street, the cars will go even faster. He also voiced his frustration that he has gotten no help from city staff when there was damage to his property when the Fountain Gate Development was built.

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RESOLUTIONS TABLED

Councilor Gilbert moved to remove Resolution 08-0455, amending Resolution 07-0723 adopting license, permit and fee charges for 2008; modifying certain fees and charges pertaining to Fire Code enforcement, from the table, which motion was seconded and unanimously carried.

Resolution 08-0455 was adopted as follows:

RESOLVED, that pursuant to Duluth City Code Sections 21-6 and 31-6(a), Resolution 07-0723 adopting license, permit and fee charges for 2008 be amended to amend, add or eliminate the following fees:

Fire	
License, Permit, Fee Name	2008 Fee
**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) Fees include initial inspection and up to two re-inspections.	
**Assembly occupancy (per gross square foot) (minimum of \$75)	\$.014
*Business/mercantile occupancy (not otherwise requiring a permit) (per gross square foot) (minimum of \$75)	\$.014
**Combustible storage occupancy (per gross square foot) (minimum of \$75)	\$.014
*Educational (per gross square foot) (minimum of \$75)	\$.014
**Factory occupancy (per gross square foot) (minimum of \$75)	\$.014
**Fire sprinklers or alarms systems (not otherwise requiring a permit) (per gross square foot) (minimum of \$75)	\$.014
**Hazardous occupancy (per gross square foot) (minimum of \$75)	\$.014
*Institutional (per gross square foot) (minimum of \$75)	\$.014

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Fire	
License, Permit, Fee Name	2008 Fee
Residential occupancy	
R-1	\$100.00
**Additional per unit	\$7.00
*R-2	\$200.00
*Additional per unit	\$20.00
R-3	\$100.00
R-4	\$100.00
Additional per unit	\$20.00
Other fees	
*Correction orders, additional copy	\$10.00
*Each failure to appear for third and subsequent re-inspections	\$75.00
Inspections made in response to citizen's complaint	-0-
Issuing new permit in conjunction with issuing a 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 upon request of any owner/occupant whose permit has been suspended or revoked	\$150.00
**Reinstating a suspended or revoked permit	\$500.00
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
*Services rendered pursuant to a contract	as per contract
**Third and subsequent reinspection and/or any initial inspection requested by the owner/occupant of a structure or his/her authorized agent	\$100.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Fire	
License, Permit, Fee Name	2008 Fee
*Fire protection systems permits	
*Fire pump - includes plan review fee and may be used for replacing existing pumps or when a new pump is added to an existing system	\$500.00
*Inspections outside of normal business hours in addition to permit fee (minimum four hours) (per hour)	\$50.00
*Permit fees	
*Minimum fee	\$50.00
*Per contract cost of:	
*\$1.00 to \$1,200.00	\$50.00
*\$1,201.00 to \$2,000.00 (for the first \$1,200.00)	\$50.00
*Plus for each additional \$100.00, or fraction thereof, to and including \$2,000.00	\$3.36
*\$2,001.00 to \$25,000.00 (for the first \$2,000.00)	\$76.88
*Plus for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00	\$15.40
*\$25,001.00 to \$50,000.00 (for the first \$25,000.00)	\$431.08
*Plus for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00	\$11.11
*\$50,001.00 to \$100,000.00 (for the first \$50,000.00)	\$708.83
*Plus for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00	\$7.70
*\$100,001.00 to \$500,000.00 (for the first \$100,000.00)	\$1,093.83
*Plus for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00	\$6.16
*\$500,001.00 to \$1,000,000.00 (for the first \$500,000.00)	\$3,557.83
*Plus for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00	\$5.23
*\$1,000,000.00 and up (for the first \$1,000,000.00)	\$6,172.83

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Fire		
License, Permit, Fee Name		2008 Fee
	*Plus for each additional \$1,000.00, or fraction thereof	\$4.12
	*Plan review fee when submittal documents are required	65% of permit fee
	*Additional plan review required after start of initial plan review (per hour)	\$50.00
	*Re-inspection	\$200.00
	*Sprinkler recall replacement	-0-
* New license, permit or fee		
**Change in license, permit or fee		

RESOLVED FURTHER, that the following fees are hereby eliminated:

Eliminated Fees		
Fire		
License, Permit, Fee Name		2008 Fee
Commercial use/occupancy permits (three year)		
Occupancy base fees		
Residential occupancy		
	R-1 - Additional per unit (100 or more units)	\$8.00
	R-3 - Additional per unit	\$20.00

Resolution 08-0455 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause and President Reinert -- 8

Nays: Councilor Stauber -- 1

Approved July 28, 2008

DON NESS, Mayor

Councilor Stauber moved to remove Resolution 08-0429, denying a request to amend Chapter 50 of the Duluth City Code, 1959, as amended, Zoning District Map No. 40 as contained in the Appendix to Chapter 50, to provide for the reclassification from S, suburban, to R-1-b, one family residential, for property located at 2516 Woodland Avenue (Forest Hill Cemetery), from the table, which motion was seconded and unanimously carried.

INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR STAUBER

08-053 (9922) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 40 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO R-1-B, ONE FAMILY RESIDENTIAL, FOR PROPERTY LOCATED AT 2516 WOODLAND AVENUE (FOREST HILL CEMETERY).

Councilor Stauber moved to consider the ordinance at this time, which motion was seconded and unanimously carried.

Resolution 08-0429 failed unanimously (Public Document No. 08-0728-10).

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

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At this time, 7:25 p.m., the 2008 street preservation program public hearing was called to order.

Mychael Duden voiced his concern that illegal trucks are using Anderson Road as a cut through and the city needs to do something to slow motorists down so people will not get killed.

Pat Mlakar, city senior engineering specialist, reviewed that the 2008 street preservation program designates streets with the intent of preserving them since they have not yet reached the point where total reconstruction is necessary.

At this time, 7:30 p.m., the public hearing was declared closed and the public hearing on the proposed City Charter local improvements and special assessments amendments was called to order.

Bob Aslesen, assistant city attorney, reviewed the history of the assessment procedures in the Charter and the need to update the language to simplify, modernize and streamline the process to respond to the needs of citizens.

Mayor Ness explained that his administration has set out to develop a new comprehensive strategy on street reconstruction and repair. He continued by saying that the administration was looking at other cities for new strategies, and realized that the Charter restricts changing the process and bringing a new process to Duluth, so he is thereby requesting the council to approve a Charter change for a new process to be implemented by 2010.

No one from the public spoke at the public hearing.

At this time, 7:45 p.m., the public hearing was declared closed and the regular order of business was resumed.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED, that the reappointment by Mayor Ness of Dennis E. Birchland (representing Council District 4) to the Duluth transit authority for a term expiring on June 30, 2011, is confirmed. Resolution 08-0469 was unanimously adopted.
 Approved July 28, 2008
 DON NESS, Mayor

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RESOLVED, that the city council approves the appointment of James Benning to the position of director of public works and utilities, effective June 2, 2008; compensation and benefits as set out for the position of director of public works and utilities at Salary Step 1165C. Resolution 08-0485 was unanimously adopted.
 Approved July 28, 2008
 DON NESS, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that pursuant to Duluth City Code sections 6-36.1 and 6-36.3, Resolution 07-0723 adopting license, permit and fee charges for 2008 be amended to add the following fees:

Clerk	
License, permit, fee name	2008 Fee
Off-leash license - annual	
Area designation, private	\$75.00
Per dog	
Resident	\$10.00
Nonresident	\$20.00

Resolution 08-0347 was unanimously adopted.
 Approved July 28, 2008
 DON NESS, Mayor

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RESOLVED, that the city of Duluth empowers the St. Louis County housing and redevelopment authority (HRA) to provide \$35,000 in funding to the Minnesota Council for Veterans, which is needed for a permanent supportive and transitional housing project for homeless veterans located at 5201 and 5209 Ramsey Street. Resolution 08-0479 was unanimously adopted.
 Approved July 28, 2008
 DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-0728-11, with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Debra Kellner, for preparation of an intensive level survey of historic properties in the amount of not to exceed \$7,605, payable from Fund 210, Agency 030, Organization 3150, Object 5441.

Resolution 08-0480 was unanimously adopted.

Approved July 28, 2008

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a multi-year agreement substantially in the form of that on file with the city clerk as Public Document No. 08-0728-12 with the Minnesota state department of transportation to authorize MN/DOT to perform geotechnical services for the city at the city's request in amounts not to exceed \$5,000 per year, through the year 2012, payable from Permanent Improvement Fund 0411, with costs assigned to various projects as appropriate.

Resolution 08-0451 was unanimously adopted.

Approved July 28, 2008

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Kalkbrenner Plumbing & Heating, Inc., for rehabilitation of private sewer services for the engineering division for the apparent low bid of \$149,700, payable out of the Sanitary Sewer Fund 0530, Department/Agency 500, Organization 1970, Object 5535, City Project No. 0709SN.

Resolution 08-0746 was unanimously adopted.

Approved July 28, 2008

DON NESS, Mayor

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The following resolutions were also considered:

RESOLVED, that the Duluth City Council authorizes the city auditor to reimburse DEDA for contamination investigation and clean up costs related to the Ikonics expansion project in an amount not to exceed \$624,653, payable from Fund 255.

Resolution 08-0481 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Fedora -- 1

Approved July 28, 2008

DON NESS, Mayor

- - -

Resolution 08-0468, confirming the reappointment of Yvonne Prettner Solon to the entertainment and convention center authority, was introduced by Councilor Gardner for discussion.

Councilor Krause explained that although his policy is that people should not serve more than two terms on a board, he is approving this reappointment because Ms. Prettner Solon is a state senator, which is beneficial to the authority.

Resolution 08-0468 was adopted as follows:

RESOLVED, that the reappointment by Mayor Ness of Yvonne Prettner Solon to the entertainment and convention center authority for a term expiring on June 30, 2011, is confirmed.

Resolution 08-0468 was unanimously adopted.

Approved July 28, 2008

DON NESS, Mayor

- - -

RESOLVED, that the reappointments by Mayor Ness of Lisa E. Augustine, Alan P. Johnson and Todd Torvinen to the Spirit Mountain recreation area authority for terms expiring on June 30, 2011, are confirmed.

Resolution 08-0470 was unanimously adopted.

Approved July 28, 2008

DON NESS, Mayor

- - -

Resolution 08-0471, confirming the reappointments of Albert M. Katz and Robert A. Prusak to the sanitary sewer board of the Western Lake Superior Sanitary District (WLSSD), was introduced by Councilor Gardner for discussion.

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

- - -

Resolutions 08-0466 and 08-0467, granting and denying, respectively, a Water Resource Management Ordinance (WRMO) special use permit and variance to Target Corporation for its store at 1902 Miller Trunk Highway, were introduced by Councilor Stauber for discussion.

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

Carol Lansing, representing Target, urged the council to approve their appeal under the WRMO as Target is making an effort to treat stormwater with a revised site plan as they did in 2000 when they expanded their building. She continued by saying that in 2000 they went through a site plan review and did make improvements in stormwater treatment to help benefit Miller Creek.

Councilor Gilbert stated that the council needs to put a limit on WRMO requests when the city has overflow issues, especially when the city is imposing stormwater management on citizens, and Target should be able to do their part.

Councilor Krause reviewed that the Minnesota department of transportation (Mn/DOT) is forcing Target to lose 100 parking spots which creates more impervious area and Target is a good corporate citizen to Duluth.

Councilor Gardner reviewed that the planning commission is not satisfied with Target's current plan and indicated that the present state of the plan will cause problems to Miller Creek, therefore she cannot support this appeal.

Resolution 08-0466 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that the city council finds the following facts:

(a) Target Corporation applied for a special use permit pursuant to Duluth City Code Section 51-28 for the redesign of the parking lot at its store at 1902 Miller Trunk Highway. In conjunction with its application for special use permit, Target Corporation also sought a variance pursuant to Duluth City Code Section 51-30 seeking an increase in allowable impervious surface

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

from the existing condition of 79 percent to 85 percent. City Code Section 51-29(e) limits impervious surface to 30 percent;

(b) The parking lot redesign was necessitated by the loss of land area to the state of Minnesota pursuant to the state's power of eminent domain which was acquired for the purposes of roadway expansions;

(c) Pursuant to Duluth City Code 51-50 an applicant for a variance must demonstrate the existence of a hardship;

(d) Planning department staff recommended to the city planning commission that, if the application were approved, the following conditions be imposed:

(1) The project be constructed and maintained in accordance with documents submitted by Westwood Professional Services and titled "Preliminary Plans for Site Modification Plans for Target - Duluth" to include:

(A) Sheet 3 of 11- removals plan dated April 29, 2008, and received on June 6, 2008;

(B) Sheet 4 of 11 - proposed overlay dated April 29, 2008, and received on June 6, 2008;

(C) Sheet 5 of 11 - site plan dated April 29, 2008, and received on June 6, 2008, subject to approval of a height variance from the board of zoning appeals or submitting of a sign that meets the Sign Code requirements;

(D) Sheet 6 of 11 - utility plan dated April 29, 2008, and received on June 6, 2008;

(E) Sheet 7 of 11 - grading, drainage, and erosion control plan dated April 29, 2008, and received on June 6, 2008;

(F) Sheet 8 of 11 - landscape plan dated April 29, 2008, and received on June 6, 2008, subject to the approval by the right-of-way authorities for placement of landscaping in the right-of-way;

(G) Sheet 9 of 11 - irrigation plan dated April 29, 2008, and received on June 6, 2008;

(H) Sheet 10 of 11 - details dated April 29, 2008, and received on June 6, 2008;

(I) Sheet SL1 - photometric plan dated April 28, 2008, and received on June 6, 2008; and

(J) "Preliminary stormwater management report for Target - Duluth" including existing and proposed drainage area maps;

(2) The project be granted a variance as allowed in Section 50-143 to construct 610 parking stalls rather than the required 632 stalls;

(3) The project be granted a variance as allowed in Section 50-143 to reduce the parking lot landscape setbacks for Mall Drive, Maple Grove Road, and Burning Tree Road as shown on the landscape, grading, and irrigation plans, subject to approval by the right-of-way authorities for placement of landscaping in the right-of-way;

(4) The applicant gain approval of the right-of-way authorities for the sidewalk on Maple Grove Road, driveway configurations on Mall Drive and Maple Grove Road, and that the applicant submit revised plan for C-5 approval, if necessary; and

(5) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the director of planning and development without further city planning

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

commission or city council action; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50, Article XXIII;

(e) After conducting a public hearing, the city planning commission considered Target Corporation's application for special use permit and variance at its June 10, 2008, regular meeting;

(f) The city planning commission unanimously denied the application for special use permit and variance because the commission determined that the proposed storm water plans failed to adequately protect Miller Creek from degradation; and

(g) Target Corporation has filed an appeal of the city planning commission denial to the city council pursuant to Duluth City Code Section 51-10(d).

RESOLVED FURTHER, that the planning commission decision is reversed upon the following grounds:

(a) The proposed stormwater plans adequately protect Miller Creek from degradation; and

(b) The loss of land through eminent domain constitutes a hardship.

RESOLVED FURTHER, that Target Corporation's application for special use permit and variance is approved upon the following terms and conditions:

(a) The project be constructed and maintained in accordance with documents submitted by Westwood Professional Services and titled "Preliminary Plans for Site Modification Plans for Target - Duluth";

(b) Sheet 3 of 11 - removals plan dated April 29, 2008, and received on June 6, 2008;

(c) Sheet 4 of 11 - proposed overlay dated April 29, 2008, and received on June 6, 2008;

(d) Sheet 5 of 11 - site plan dated April 29, 2008, and received on June 6, 2008, subject to approval of a height variance from the board of zoning appeals or submitting of a sign that meets the Sign Code requirements;

(e) Sheet 6 of 11 - utility plan dated April 29, 2008, and received on June 6, 2008;

(f) Sheet 7 of 11 - grading, drainage, and erosion control plan dated April 29, 2008, and received on June 6, 2008;

(g) Sheet 8 of 11 - landscape plan dated April 29, 2008, and received on June 6, 2008, subject to the approval by the right-of-way authorities for placement of landscaping in the right-of-way;

(h) Sheet 9 of 11 - irrigation plan dated April 29, 2008, and received on June 6, 2008;

(i) Sheet 10 of 11 - details dated April 29, 2008, and received on June 6, 2008;

(j) Sheet SL1 - photometric plan dated April 28, 2008, and received on June 6, 2008;

(k) "Preliminary stormwater management report for Target - Duluth" including existing and proposed drainage area maps;

(l) The project be granted a variance as allowed in Section 50-143 to construct 610 parking stalls rather than the required 632 stalls;

(m) The project be granted a variance as allowed in Section 50-143 to reduce the parking lot landscape setbacks for Mall Drive, Maple Grove Road, and Burning Tree Road as shown on the landscape, grading, and irrigation plans, subject to approval by the right-of-way authorities for placement of landscaping in the right-of-way;

(n) The applicant gain approval of the right-of-way authorities for the sidewalk on Maple Grove Road, driveway configurations on Mall Drive and Maple Grove Road, and that the applicant submit revised plan for C-5 approval, if necessary; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

(o) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the director of planning and development without further city planning commission or city council action; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50, Article XXIII.

Resolution 08-0466 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Krause and Stauber -- 6

Nays: Councilors Gardner, Gilbert and President Reinert -- 3

Approved July 28, 2008

DON NESS, Mayor

- - -

Resolution 08-0467 failed upon the following vote (Public Document No. 08-0728-14):

Yeas: Councilors Gardner, Gilbert and President Reinert -- 3

Nays: Councilors Anderson, Cuneo, Fedora, Fosle, Krause and Stauber -- 6

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RESOLVED, that the city council approves the reclassification to non-conservation and sale of the following tax forfeited parcels by the board of county commissioners of Saint Louis County (FN 08065, 05/28/2008 list):

Parcel ID and legal description	Location
010-0890-06580 010-0890-06590 Duluth Heights Sixth Division Block 19, Lots 5 & 6 Tract #1	east side of Basswood Avenue between Mulberry Street and Linden Street (Duluth Heights)
010-2140-02460 Hazelwood Park Division of West Duluth Block 16, Lot 10 Tract #2	lower side of West Fourth Street between 39th Avenue West and 40th Avenue West (Lincoln Park)
010-2860-00460, 010-2860-00470 010-2860-00480, 010-2860-00490 010-2860-00500, 010-2860-00510 010-2860-00520, 010-2860-00530 010-2860-00540 Lester Park Fourth Division Block 53, Lots 4 thru 12 ex hwy right-of-way Tract #3	between East Superior Street (Old North Shore Road) and the St. Louis and Lake County Railroad east of 63rd Avenue East (Lakeside- Lester Park)
010-3350-00950 Morris Park Division of Lakeside Lot 104 Tract #4	between Dodge Street and St. Louis and Lake County Railroad between South 52nd Avenue East and South 54th Avenue East (Lakeside- Lester Park)

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Parcel ID and legal description	Location
010-4540-02820 West End Addition Block 17, Lot 14, ex that part taken for Grand Avenue and all of Lot 15 Tract #5	upper side of Grand Avenue (Trunk Hwy. 23) at 65th Avenue West (Fairmount)

Resolution 08-0473 was unanimously adopted.
Approved July 28, 2008
DON NESS, Mayor

- - -

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 the city of Duluth standards, of those streets and avenues set forth in Public Document No. 08-0728-13 on file in the office of the city clerk; that the costs of said improvement estimated at \$600,000 shall be paid from Street Improvement Fund 0440, and that one-fourth or less of said costs be levied against the properties abutted by said improvements.

Resolution 08-0477 was unanimously adopted.
Approved July 28, 2008
DON NESS, Mayor

- - -

Resolution 08-0457, alienating certain city property on Park Point and authorizing the sale of same, was introduced by Councilor Anderson for discussion.

Mayor Ness urged the council to approve this resolution as the sale of this property will be added to the city's reserve to help ease budget concerns.

President Reinert and Councilor Gardner urged councilors to table this resolution to give residents of Park Point a chance to speak to the council on this issue.

President Reinert moved to table the resolution until August 11, which motion was seconded and carried upon the following vote:

Yeas: Councilors Cuneo, Gardner, Gilbert, Stauber and President Reinert -- 5
Nays: Councilors Anderson, Fedora, Fosle and Krause -- 4

- - -

RESOLVED, that the proper city officials are authorized to accept the donation of 21 wood-mounted photos of the Aerial Lift Bridge from Jan Karon.

FURTHER RESOLVED, that the city of Duluth expresses its appreciation to Jan Karon for her donation.

Resolution 08-0483 was unanimously adopted.
Approved July 28, 2008
DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCES TABLED

BY COUNCILORS GILBERT AND GARDNER
08-020 - AN ORDINANCE AMENDING SECTION 50-55.1 OF THE DULUTH CITY CODE, 1959,
AS AMENDED, PERTAINING TO KEEPING CHICKENS IN CITY.

Councilor Gardner 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 issue.

Nancy Nelson explained that there are two parts to this new ordinance which will include a change to Chapter 50 addressing the Zoning Code of where chickens can be raised, and Chapter 6 of the Code which will address the rules for raising chickens. She continued by saying that the animal control officer is currently making changes to all of Chapter 6 which is causing the delay on voting for both of these ordinances together.

Marian Syrjamaki urged the council to approve the ordinance since it is enjoyable to have chickens in the backyard and is good for gardens and insect control.

Will Rhodes, representing Duluth Area Green Party and Duluth City Chickens, spoke in favor of the ordinances because the green party supports raising chickens as residents can have their own fresh eggs and because sustainability is very important as energy costs go up. He continued by saying that many people who raise chickens already are unaware of the zoning rules and restrictions currently in the City Code.

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

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Krause, Stauber and President Reinert -- 7

Nays: Councilors Fedora and Fosle -- 2

- - -

BY COUNCILOR STAUBER

08-048 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW SECTION 50-1.50.1 DEFINING THE RESIDENTIAL PARKING AREA, AMENDING SECTION 50-30 TO ESTABLISH THE AUTHORIZED PARKING AREAS ON A RESIDENTIAL LOT AND CREATING A VARIANCE FROM SUCH REGULATION.

Councilor Stauber 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 issue.

Anthony Fillman voiced concern that he needs parking on his property as there is no alley behind his house and no parking on Arrowhead Road and questioned where he would be able to park. He also stated that blacktopping driveways will add to the impervious surfaces which will add more to the stormwater problem.

Joe Matthes opposed the ordinance as it does not work for the neighborhoods that do not have off street parking and only have a single car garage and driveway when there are a lot of people in the house who have a car.

Gary Kalligher, representing Duluth Association for Responsible Renters (DARR), stated that DARR is divided on this subject as parking is a big issue for rentals and is concerned about the blight that it causes. He continued by saying that the language is very confusing which would make it hard to implement.

Councilor Stauber introduced a friendly amendment to Section 3 of the ordinance which would delay the enforcement of this ordinance until June 1, 2009. He reviewed that there is an ordinance currently in place that says you cannot park in the front yard but it is only enforced sporadically because of the unclear definition of what the front yard is.

Councilor Stauber moved to retable the amended ordinance, which motion was seconded and carried upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Krause and Stauber -- 6

Nays: Councilors Fedora, Fosle and President Reinert -- 3

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The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR FOSLE

08-058 - AN ORDINANCE REPEALING SPRINKLING ALLOWANCE ON SANITARY SEWER BILLS, REPEALING SECTION 43-9 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR FOSLE

08-054 (9923) - AN ORDINANCE AMENDING AND REPLACING CHAPTER IX OF THE DULUTH CITY CHARTER, PERTAINING TO LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS.

Councilor Krause moved to amend Section 65 of the ordinance to delete the words "or cleaning," which motion was seconded and unanimously carried.

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

- - -

BY COUNCILOR ANDERSON

08-052 - AN ORDINANCE AMENDING SECTION 34-13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO GRAFFITI AND ITS REMOVAL.

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

- - -

Councilor Anderson introduced the following two ordinances so that they could be considered at the same time.

INTRODUCED BY COUNCILOR ANDERSON

08-056 - AN ORDINANCE AMENDING SECTION 35-9 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PROVIDING FOR SPECIAL EVENT PERMITTING IN PUBLIC PARKS AND PUBLIC RECREATION AREAS AND AMENDING SECTION 35-9.3 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PROVIDING FOR THE HOURS OF OPERATION OF PUBLIC PARKS AND PUBLIC RECREATION AREAS.

- - -

BY COUNCILOR ANDERSON

08-057 (9924) - AN ORDINANCE AMENDING SECTION 35-9.3 OF THE DULUTH CITY CODE, 1959, AS AMENDED, LIMITING THE AUTHORITY OF THE DIRECTOR OF PARKS AND RECREATION TO DETERMINE THE HOURS FOR SPECIAL EVENTS AT BAYFRONT FESTIVAL PARK RECREATION AREA.

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

Grey Doffin urged councilors to consider the residents who live close to Bayfront and close down the music events there as the music carries up the hill and is a disturbance to the neighborhoods. He continued by saying that the promoters of an event should be able to state the hours, and if the event is over by 10:00 p.m., there would still be time for people leaving Bayfront to go to local restaurants and bars.

Craig Samborski questioned the concern for the noise as there has only been two events this summer that have gone after 10:00 p.m., but also stated that the bigger the act the later the event usually lasts.

President Reinert moved to amend Ordinance 08-057, Section 35-9.3, as follows:

(a) In paragraph 1, add the following sentence to the end of the paragraph: "No event at Bayfront Festival Park shall terminate later than 11:00 p.m. on Sunday through Thursday of any week, and no later than 11:59 p.m. on Friday and Saturday of any week.";

(b) In paragraph 4, delete the following language at the beginning after the phrase "Except for": "permits issued pursuant to Section 35-9(a)(3) for events occurring at the recreational area known as";

(c) Add the following to the end of the section: "Any permit holder exceeding the termination time for Bayfront Festival Park shall be subject to additional fees as provided in this paragraph. The additional fee for any event required to terminate at 11:00 p.m. shall be \$200. The additional fee for any event required to terminate at 11:59 p.m. shall be \$400," which motion was seconded for discussion.

Councilor Krause spoke against the amendment as the city itself is an amphitheater and has had several complaints from neighborhoods about the noise at Bayfront.

As a friendly amendment, Councilor Stauber requested the reference of fees be taken out of the amendment.

President Reinert's amendment carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Councilor Anderson moved passage of Ordinance 08-057, as amended, and the same was adopted upon a unanimous vote.

- - -

Without objection, Ordinance 08-056 was returned to the administration.

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The meeting adjourned at 9:45 p.m.

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

- - -

ORDINANCE NO. 9922

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 40 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO R-1-B, ONE FAMILY RESIDENTIAL, FOR PROPERTY LOCATED AT 2516 WOODLAND AVENUE (FOREST HILL CEMETERY).

The city of Duluth does ordain:

Section 1. That Lots 6 through 14, Block 4, Woodland Park Sixth Division, be reclassified from S, suburban, to R-1-b, one family residential (FN 08057), and that Plate No. 40 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 at end of meeting]

(Reference File No. 08057)

Section 2. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: September 7, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed July 28, 2008

Approved July 28, 2008

DON NESS, Mayor

- - -

ORDINANCE NO. 9923

**AN ORDINANCE AMENDING AND REPLACING CHAPTER IX OF
THE DULUTH CITY CHARTER, PERTAINING TO LOCAL
IMPROVEMENTS AND SPECIAL ASSESSMENTS.**

The city of Duluth does ordain:

Section 1. That Chapter IX of the 1912 Charter of the City of Duluth, as amended, be deleted in its entirety.

Section 2. That the 1912 Charter of the City of Duluth, as amended, be amended by adding a new Chapter IX to read as follows:

CHAPTER IX. LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS.

Section 60. The city shall have the power to make any and every type of improvement not forbidden by the laws of the state. An improvement on two or more streets, or two or more types of improvements in or on the same street or streets or different streets, may be included in one proceeding and conducted as one improvement.

Section 60(A). A special assessment board is established to review plans for public improvements proposed to be constructed and to be funded in whole or in part through assessments against benefitted property, to hold hearings to hear from persons affected by such proposed improvements and to make recommendations to the Council regarding the making of such improvements and the amount, if any, which should be assessed against benefitted properties therefore. The membership on the board shall be established by ordinance.

Section 61. (a) Improvements shall originate upon petition of the property owners affected or upon the council's own initiative as the council may, by ordinance, prescribe. Before adopting the ordering in resolution as provided herein, the council shall, by resolution, state its intention to cause the improvements to be constructed and require the mayor to have plans and estimates prepared or cause to be prepared plans and specifications therefor, and an estimate of the cost thereof, and to file such plans and estimate with the special assessment board, together with

a recommendation as to what portion of the cost should be paid by special assessment and what part, if any, should be a general obligation of the city, the number of installments in which assessments may be paid and the lands which should be included in the special assessment;

(b) The special assessment board shall set the time, date and place at which the board will hold a public hearing to consider such improvement. Not less than ten days prior to the hearing, notice of the hearing shall be mailed to each known owner of the affected property at the owner's last known address;

(c) Failure to receive mailed or actual notice or any defects in the notice shall not invalidate the proceedings;

(d) At the hearing, the special assessment board shall meet and hear any person to be affected by the proposed public improvement or assessment. After completion of the hearing, the board shall transmit to the council the plans, specifications and estimates filed with it and shall report to the council its findings as to the necessity of the proposed public improvement and its recommendation therefor, and its recommendations as to assessment, if any, of the cost thereof.

Section 62. After the report of the special assessment board has been received, the council may by resolution order in the improvement and make the determination to defray the whole or any part of the cost of the improvement by special assessment upon the property specially benefitted, the number of installments in which assessments may be paid and designate the land upon which special assessments shall be levied.

Section 63. The city shall have the power to levy assessments to pay all or any part of the cost of improvements as are of a local character, but in no case shall the amounts assessed exceed the benefits to the property.

Section 64. (a) After the date of the ordering in resolution described in Section 62 and upon completion of the work, the proper city officers shall calculate the expenses incurred in making the improvement;

(b) Thereafter, an assessment roll shall be prepared, which shall include assessments against property benefitted by the improvement. The roll shall be filed and open to public inspection;

(c) In estimating the benefits to any particular lot, piece or parcel of land, the proper city officers shall consider the owners' interest therein, the form and position of the several parcels of land, the qualified rights of the owners, and any other circumstances rendering the improvement beneficial to him or them;

(d) Notice of the public hearing at which the council will consider the assessment roll shall be published in compliance with statutory requirements for publication of official notices not less than 20 days before such hearing. At least ten days before the hearing, notice thereof shall be mailed to every known owner of property subject to an assessment at his last known address;

(e) At the hearing or at any adjournment thereof, the council shall hear all persons relative to the assessment. Thereafter by resolution, it shall adopt the assessment roll with or without amendment.

Section 65. The council may provide, by ordinance, that the cost of any work such as water and sewer service line installation, replacement and repair, and any maintenance, repair performed on streets, sidewalks, boulevards or other public

or private property which are undertaken by the city and which are authorized by statute or city ordinance may be charged against the property benefitted. Such charges shall be collected and levied like special assessments or in such other manner as the council determines. The council shall have the power to abate nuisances on any particular property and shall have the power to collect the costs of such abatement as a special assessment in the manner provided in this Chapter.

Section 66. In the event the council finds an assessment or any part thereof is defective, inadequate or invalid, the council may, upon notice and hearing to affected persons in the manner provided for the original assessment, make a reassessment or a new assessment or a supplemental assessment against the parcel or parcels affected.

Section 67. (a) Within 20 days after the order adopting the assessment, or making a reassessment, a new assessment or supplemental assessment, any person may appeal to the district court for St. Louis County, Minnesota, by filing a notice of appeal with the city clerk stating the grounds upon which the appeal is taken. Such notice shall be filed with the clerk of the district court within ten days after the filing with the city clerk;

(b) The only defense to an assessment shall be that the assessment is fraudulent, or that it is made upon a demonstrable mistake of fact or law, or that the assessment is in an amount in excess of the actual benefits to the property. The jurisdiction of the court shall not be affected by an error, act or omission not affecting the substantial rights of any person;

(c) A person who fails to file the notice of appeal with the city clerk within the time specified or fails to file the notice of appeal with the district court within the time specified shall be forever barred from proceeding with an appeal and trial in said court, and the assessment shall be final;

(d) In case of an appeal, the appellant shall be given a copy of the assessment roll or any part thereof upon payment of an amount designated by administrative ordinance. This copy shall be certified to by the proper city officers and filed by the appellant in the district court.

Section 68. (a) The appeal shall be tried in the district court as other civil cases, pursuant to the district court rules of civil procedure, and shall have preference over all other civil cases;

(b) The court shall either affirm the assessment or set it aside and determine the lawful amount thereof;

(c) If the court approves the assessment, it shall make an order affirming it and render judgment against each lot, part or parcel of land for the amount of the assessment.

Section 69. (a) The council shall provide by ordinance the manner in which the assessment shall be collected, the rate of interest and penalty to be charged thereupon, and the date from which the interest shall first accrue;

(b) The county auditor shall include in the tax rolls any delinquent assessment or installment thereof, together with accrued charges, due and payable under the terms of the ordinance. The amounts so included shall be collected in the same manner as are municipal taxes and shall be subject to the same penalties, costs and interest charges as are municipal taxes;

(c) Every assessment shall be a lien upon all private and public property from the date of the resolution adopting the assessment. Such assessments and interest shall be of equal rank with the lien of the state for general taxes which have been or may be levied upon the property.

Section 70. The city at its option may exercise the powers and follow the procedures provided by Minnesota Statutes, Chapter 429.

Section 3. That this ordinance shall take effect 90 days after its passage and publication.
(Effective date: November 6, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

Passed July 28, 2008

Approved July 28, 2008

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9924

BY COUNCILOR ANDERSON:

AN ORDINANCE AMENDING SECTION 35-9.3 OF THE DULUTH CITY CODE, 1959, AS AMENDED, LIMITING THE AUTHORITY OF THE DIRECTOR OF PARKS AND RECREATION TO DETERMINE THE HOURS FOR SPECIAL EVENTS AT BAYFRONT FESTIVAL PARK RECREATION AREA.

The city of Duluth does ordain:

Section 1. That Section 35-9.3 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 35-9.3. Use of parks between certain hours prohibited without prior registration, exceptions.

Except as provided herein, no persons shall enter or remain in any public park or public recreation area, except Canal Park, between the hours of 12:00 midnight and 6:00 a.m. on any day. No event at Bayfront Festival Park shall terminate later than 11:00 p.m. on Sunday through Thursday of any week, and no later than 11:59 p.m. on Friday and Saturday of any week.

The director of parks and recreation of the city is hereby authorized to close any public park or public recreation area between the hours of 10:00 p.m. and midnight, or any part of such time period, by posting appropriate signs to such effect at such park or recreation area, and in such case, no person shall enter or remain in such park or recreation area during such hours.

Provided, however, that before exercising his authority pursuant to this paragraph, the director of parks and recreation shall file notice with the city council of his intention to do so at least three days prior to a council meeting and, if the council does not disapprove such action by resolution adopted no later than the

second council meeting after such notice is filed, the director may then proceed to implement the closing of the park.

Except for Bayfront Festival Park, the director of parks and recreation of the city is hereby authorized to suspend the provisions of the first and second paragraphs of this Section with respect to any park or recreation area for special events or occasions.

The provisions of this Section shall not be applicable to law enforcement personnel, nor to employees of the city while carrying out duties within the scope of their employment with the city.

The provisions of this Section shall not be applicable to any person if such person or a group of which such person is a member or guest has received a permit to be in such park or recreation area during such time from the director of parks and recreation of the city. The director of parks and recreation shall issue permits authorizing use of public parks or public recreation areas during the hours such parks or recreation areas are closed pursuant to this Section to all persons or groups requesting such permits; provided, however, that any person or any group including any person who has been convicted of violating any law while in a public park or public recreation area during such hours, shall not be issued such a permit for a period of one year after such conviction.

The provisions of this Section shall not be applicable to any person while he is making use of any park or recreation area for fishing or boating purposes, or to any person while driving a vehicle on a park road for purposes of passing through such park, or to any person while a passenger in or on such a vehicle.

Any permit holder exceeding the termination time for Bayfront Festival Park shall be subject to additional fees which shall be set by resolution in accordance with Section 31-6(a) of the Code.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: September 7, 2008)

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

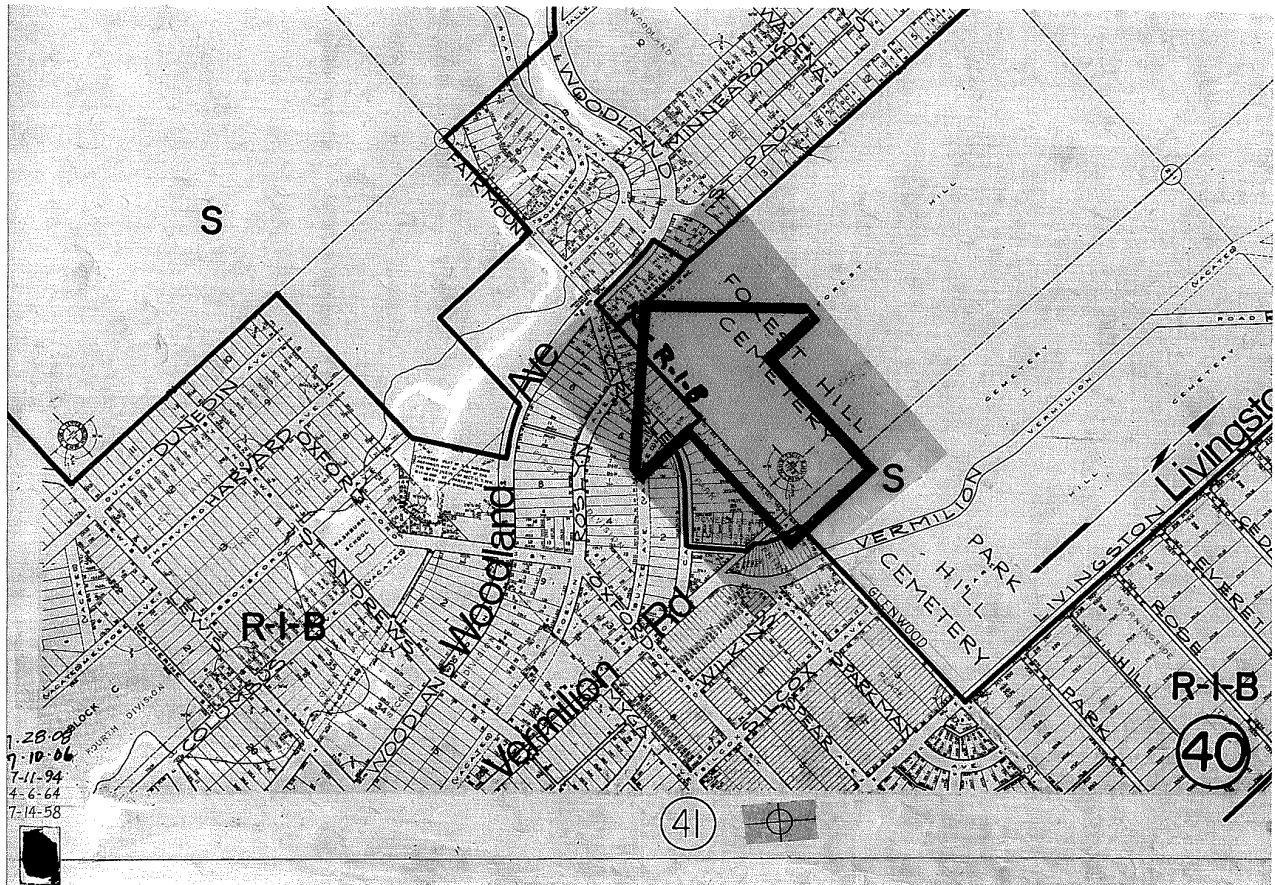
Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 28, 2008
Approved July 28, 2008
DON NESS, Mayor

- - -



OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 11, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Krause, Stauber and President Reinert -- 8

Absent: Councilor Gilbert -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0811-01 Minnesota state auditor management and compliance report for the city of Duluth for the year ended December 31, 2007. -- Received

08-0811-02 Arrowhead regional development commission proposed 2008 tax levy request and budget. -- Received

08-0811-07 George Hanson communications regarding the proposed ordinances pertaining to requiring boards and commissions to adopt bylaws regulating conduct of business and public participation (08-061-O) and allowing a citizen to petition for appointment of a special prosecutor to prosecute conflicts of interest (08-062-O). -- Received

08-0811-09 The following communications regarding the proposed ordinance pertaining to front yard parking (08-048-O): (a) Craig Amundson; (b) George Hanson; (c) Rodney Lubianai; (d) Kathleen Sardan; (e) Laura and Tom Tonkin. -- Received

08-0811-10 The following communications regarding the proposed resolution and ordinances pertaining to keeping chickens in the city (08-0498R, 08-020-O and 08-059-O): (a) James Crane and Tomas Velez; (b) Mike Morrissey. -- Received

08-0811-12 The following communications regarding the proposed ordinance repealing sprinkling allowances on sanitary sewer bills (08-058-O): (a) Dan Guinee; (b) Arnie Hughley; (c) Dale Taran; (d) Steven Trogdon. -- Received

08-0811-11 The following communications regarding the proposed resolution alienating certain city property on Park Point and authorizing the sale of same (08-0457R): (a) Warren Howe; (b) Carol Kondrath; (c) Kinnan Stauber; (d) Scott Wolff. -- Received

- - -

REPORTS FROM OTHER OFFICERS

08-0811-03 Assessor:

(a) Affidavit of mailing of notice of the levying of assessments against the property specially benefitted for unpaid delinquent stormwater utility bills;

(b) Letters of sufficiency of petitions to vacate:

(1) 125 feet of alley easement in Block 19, Duluth Heights Sixth Division which is parallel to Basswood Avenue and Mulberry Street;

(2) Streets, alleys and utility easements throughout the Harbor Highlands neighborhood in Duluth Proper, Third Division. -- Received

08-0811-04 Clerk application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from Duluth East Athletic Association on May 4, 2009. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

08-0811-05 Entertainment and convention center authority minutes of July 22, 2008, meeting. -- Received

08-0811-06 Seaway Port authority of Duluth: (a) Financial report for June 2008; (b) Proposed 2008 tax levy request. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Jerry Schlafer commented on his proposal (Public Document No. 08-0811-08) to stimulate business activity.

- - -

Karen Lewis commented on an idea saving the Tiffany windows and gaining revenue by selling photographs of them on garden flags.

- - -

Frank Rohde commented on the difficulty of his aging mother being able to sell her property in the University of Minnesota–Duluth (UMD) area because it does not have a rental license.

- - -

RESOLUTIONS TABLED

Councilor Fedora moved to remove Resolution 09-0471, confirming the reappointments of Albert M. Katz and Robert A. Prusak to the sanitary sewer board of the WLSSD, from the table, which motion was seconded and unanimously carried.

Resolution 08-0471 was adopted as follows:

RESOLVED, that the reappointments by Mayor Ness of Albert M. Katz and Robert A. Prusak to the sanitary sewer board of the Western Lake Superior Sanitary District for terms expiring on July 1, 2011, are confirmed.

Resolution 08-0471 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Krause, Stauber and President Reinert -- 7

Nays: Councilor Gardner -- 1

Absent: Councilor Gilbert -- 1

Approved August 11, 2008

DON NESS, Mayor

- - -

Councilor Anderson moved to remove Resolution 08-0457, alienating certain city property on Park Point and authorizing the sale of same, 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.

Edward Alspach, Kinnan Stauber, David Poulin, president of the Park Point Community Club, Kathy Podeszra, representing the Duluth Audubon Society, and Dave Johnson spoke of their concerns of: there is no provision for maintaining the right-of-way for Minnesota Avenue or for utilities across those properties; as to what the net proceeds to the city will be from this sale after extending and/or repairing the necessary water and sewer lines; the property descriptions include the riparian water rights, which should not be sold to anyone; the community has not had time to respond; the city would be losing the “park” connectivity property; the alienation of these two

parcels will set a precedence; the sale will destroy natural habitat; the increased development will only tax the city's infrastructure further; in 1936 the property was conveyed to the city to perpetuate and maintain public parks; as councilors you are required by code to protect those parcels of park property; a survey was taken of the Park Point residents as to their feelings on this, of which 95 responded and 26 said "sell" the land and 69 said "do not sell" the land; the city should be preserving green space at all costs; the sale conflicts with the comprehensive plan; this was attempted previously and a decision was made not proceed; many in the city feel that this should be a state park; this area is important for birds; officials have responded that making this area a state park is "intriguing" and Park Pointers want to work with the city.

Councilor Gardner noted that her research has shown that this land was deeded to the city for park land or recreational purposes. In addition, she felt that while selling this land to the state would require this resolution, but that by passing it, it is telling that city to go ahead and market this land for private developers. She supported tabling the resolution at this time to see the feasibility of the state turning this into a state park.

Councilor Krause expressed concern over the increased traffic associated with a state park versus private development.

Councilor Fedora noted: the updated 2009 projected budget shortfall is \$6.5 million, and with the intent of increasing the budget reserve by \$3 million, it brings it to \$9.5 million; the 2008 deficit is just under \$4 million; that with this financial situation there will probably be layoffs; these parcels are not in the park and are bisected by existing residential homes and in addition to the immediate injection of cash with this sale, there will be a capturing of additional property taxes.

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

"RESOLVED FURTHER, that upon the opening of any bids pursuant to Section 2-76(e) and (f) of said Code, and prior to any award thereof, the city shall first offer the property for sale to the state of Minnesota department of natural resources at a price equal to the high bid received therefore for the purpose of the creation by the state of a state park on Minnesota Point and, if not accepted by the state within ten days of being so offered, then to the Nature Conservancy for the same amount under the same terms for the purpose of permanently conserving the property as a natural area, the form of which conservancy shall be subject to approval by the city attorney,"

which motion was seconded for discussion.

Councilor Fedora's concerns were that these are not contiguous parcels of land and if the city has a right of first refusal, the sale proceeds are going to be restricted.

Councilor Stauber's amendment was carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Stauber and President Reinert -- 5

Nays: Councilors Fedora, Fosle and Krause -- 3

Absent: Councilor Gilbert -- 1

Resolution 08-0457, as amended, was adopted as follows:

RESOLVED, that, as per the provisions of Section 2-176 of the Duluth City Code, 1959, as amended, the city council hereby designates the property described below as being surplus to the city's future needs, and hereby declares its intention to alienate and sell its interest in same:

Northerly 225 feet and southerly 200 feet, Parcel Four (4), REFEREE'S PLAT OF MINNESOTA POINT.

RESOLVED FURTHER, that upon the opening of any bids pursuant to Section 2-76(e) and (f) of said Code, and prior to any award thereof, the city shall first offer the property for sale to the

state of Minnesota department of natural resources at a price equal to the high bid received therefore for the purpose of the creation by the state of a state park on Minnesota Point and, if not accepted by the state within ten days of being so offered, then to the Nature Conservancy for the same amount under the same terms for the purpose of permanently conserving the property as a natural area, the form of which conservancy shall be subject to approval by the city attorney.

Resolution 08-0457, as amended, was unanimously adopted.

Approved July 28, 2008

DON NESS, Mayor

- - -

Councilor Anderson moved to remove Resolution 08-0458, accepting \$20,000 from the Harrison Community Club to apply to the deductible for reconstruction of Harrison Community Center, from the table, which motion was seconded and unanimously carried.

Councilor Anderson moved to remove the resolution from the agenda pursuant to the request of the administration, 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.)

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

BE IT RESOLVED, that the city council of the city of Duluth hereby approves amending the date of the temporary expansion of the designated serving area of the following on sale intoxicating liquor license, subject to departmental approvals, with any specific restrictions:

Hospitality of Duluth, LLC (Aces on First), 113 West First Street, for August 22, 2008, with the music and serving starting at 6:00 p.m. and ceasing at midnight (rain date September 20, 2008).

Resolution 08-0488 was unanimously adopted.

Approved August 11, 2008

DON NESS, Mayor

- - -

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:

Player's Sports Bar Softball Team, Wheeler Field, for August 23 and 24, 2008, with Rick McArthur, manager.

Resolution 08-0489 was unanimously adopted.

Approved August 11, 2008

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of stock of the following off sale intoxicating liquor license for the period ending August 31, 2008, subject to departmental approvals and further subject to approval of the liquor control commissioner:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

DA Fitzpatrick, Inc. (Lake Aire Bottle Shoppe), 2530 London Road, with the addition of Dale Taran and 41.5331 shares.

Resolution 08-0490 was unanimously adopted.

Approved August 11, 2008

DON NESS, Mayor

- - -

RECITALS:

(a) The Duluth City Council adopted Resolution No. 03-0731 which authorized the Arrowhead Regional Development Commission to act as job opportunity building zone (JOBZ) zone sponsor and administrator and to make program commitments on behalf of the city of Duluth;

(b) The Minnesota department of employment and economic development (DEED) approved the Northeast Minnesota regional JOBZ application for 4,031 acres, including 351.12 acres within the city of Duluth;

(c) The Duluth City Council adopted Resolution No. 04-0236 designating those 351.12 acres within the city of Duluth into 11 subzones, including 95.78 acres in Airpark Subzone Number 97;

(d) The Duluth Seaway Port authority subsequently desired to reallocate 3.7 acres in Airpark Subzone Number 97 to a 3.34 acre project site (resulting in a net reduction in Airpark Subzone Number 97 of 0.36 acres), and the Duluth City Council approved said reallocation pursuant to Resolution 06-0577 adopted August 14, 2006;

(e) The Duluth Seaway Port authority desires to reallocate an additional 5.3 acres from Lot 3, Block 2, Second Rearrangement of Part of Airpark Division (PID #010-0164-00051) to a 2.45 acre parcel (resulting in an additional net reduction in Airpark Subzone Number 97 by 2.85 acres) described as Lot 3, Block 2, Airpark Division (PID #010 0164-00050);

(f) The JOBZ program created in Minnesota Session Laws 2003, First Special Session, Chapter 21, Article 1, allows for the formation of tax free zones and for subzone boundaries to be amended with the approval of all taxing authorities;

(g) The Duluth Seaway Port authority further desires to provide JOBZ benefits to a new startup business on the 2.45 acre parcel.

NOW THEREFORE, BE IT RESOLVED, that the city of Duluth approves an amendment to Airpark Subzone Number 97 as follows:

(a) Remove a total of 5.3 acres from Lot 3, Block 2, Second Rearrangement of Part of Airpark Division (PID# 010-0164-00050);

(b) Add 2.45 acres to Lot 3, Block 2, Airpark Division (PID #010-0141-00110).

Resolution 08-0503 was unanimously adopted.

Approved August 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to allow modification to City Contract No. 20095 to accept an additional \$120,000 from the U.S. department of housing and urban development, providing for enforcement of federal civil rights laws and processing of related complaints by the city human rights office and other related matters, a copy of which is on file with the city clerk as Public Document No. 08-0811-13, capacity building funds to be deposited in Fund No. 100, Agency 010, Organization 1105, Revenue Source 4209-2.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Resolution 08-0505 was unanimously adopted.
Approved August 11, 2008
DON NESS, Mayor

- - -

RESOLVED, that pursuant to Minnesota Statutes 204B.21, the following persons are hereby appointed as election judges in the respective precincts for the September 9, 2008, state primary election and the November 4, 2008, state general election, as listed in Public Document No. 08-0811-14.

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 \$.585 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 08-0487 was unanimously adopted.
Approved August 11, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to pay to Clayton and Cindy Kerr the sum of \$11,280.45 in full and final settlement of the claim which arose out of a break in a city watermain occurring near 723 Old Howard Mill Road on February 26, 2008; payment to be made from the Self Insurance Fund 610-036-1652-5841.

Resolution 08-0486 was unanimously adopted.
Approved August 11, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept the substantial donation of property, which property is described on the deed, a copy of which is on file in the office of the city clerk as Public Document No. 08-0811-15, from Jerome G. Arnold and Judith L. Arnold, F.K.A. Judith M. Arnold.

RESOLVED FURTHER, that city of Duluth expresses its appreciation to said Jerome and Judith Arnold for their donation and assistance in implementing this important city project.

Resolution 08-0491 was unanimously adopted.
Approved August 11, 2008
DON NESS, Mayor

- - -

RESOLVED, that 08-0125R is hereby amended and the city's Minnesota Contract Release E-79(5) with Service Electric of Superior for completing small electrical work in year 2008, is increased by \$119,500, for a total amount of \$149,500, terms net 30, payable as follows:

- (a) \$88,000 from the Water Fund 510, Agency 500, Organization 1955, Object 5404 (labor);
- (b) \$31,500 from the Water Fund 510, Agency 500, Organization 1955, Object 5220

(parts).

Resolution 08-0492 was unanimously adopted.

Approved August 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Nord-Sen Metal Industries, Ltd., for the purchase and installation of the primary vertical coal elevator in the steam plant for the Duluth Steam Utility District #1 for \$112,000 plus \$14,455 in options plus \$8,219.58 sales tax for a total amount of \$134,674.58, terms net 30, FOB destination 1 Lake Place Drive, payable from the Steam Fund 540, Agency 920, Organization 1499, Object 5530.

Resolution 08-0495 was unanimously adopted.

Approved August 11, 2008

DON NESS, Mayor

- - -

The following resolutions were also considered:

RESOLVED, that the proper city officials are hereby authorized to execute the amended Exhibit A to service agreement with Blue Cross and Blue Shield of Minnesota, substantially in the form of that on file in the office of the city clerk as Public Document No. 08-0811-16, to provide administrative services and stop loss insurance to the city's group health insurance plans effective January 1, 2008; payable from the group health fund.

Resolution 08-0494 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Stauber and President Reinert -- 7

Nays: None -- 0

Abstention: Councilor Krause -- 1

Absent: Councilor Gilbert -- 1

Approved August 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized to execute an agreement with Secret Service Entertainment, LLC, amending Article 9 of the parties agreement, said agreement to be substantially in the form of Public Document No. 08-0811-19 on file in the office of the city clerk.

Resolution 08-0499 was adopted upon the following vote:

Yeas: Councilors Cuneo, Fedora, Fosle, Gardner, Krause, Stauber and President Reinert -- 7

Nays: None -- 0

Abstention: Councilor Anderson -- 1

Absent: Councilor Gilbert -- 1

Approved August 11, 2008

DON NESS, Mayor

- - -

Resolution 08-0498, by councilors Gilbert and Gardner, amending Resolution 07-0723 adopting license, permit and fee charges for 2008; setting the fee for the new keeping of chickens license, was introduced for discussion.

Councilor Gardner moved to table the resolution for consideration of the companion ordinance on August 25, which motion was seconded and unanimously carried.

- - -

Resolution 08-0504, by Councilor Fedora and President Reinert, calling for an advisory referendum pertaining to the sale of intoxicating liquor in the Lakeside and Lester Park neighborhoods of Duluth, was introduced for discussion.

Councilor Krause opposed this resolution because he felt that this is an issue that effects areas outside of precincts 1 through 4.

Resolution 08-0504 was adopted as follows:

BY COUNCILOR FEDORA AND PRESIDENT REINERT:

RECITALS:

(a) Under Special Laws 1891, Chapter 57, Chapter XII, Section 5, the issuance of licenses for the sale of intoxicating liquor in what was formerly known as the city of Lakeside neighborhood of Duluth has been prohibited;

(b) The city of Lakeside is currently known as the area bordered by 40th Avenue East on the west, Skyline Parkway on the north, the city limits on the east and Lake Superior on the south (the "Lakeside and Lester Park neighborhoods");

(c) Pursuant to Resolution 08-0097 adopted on January 28, 2008, the Duluth City Council wishes to determine the desire of the voters in Duluth precincts one through four with respect to allowing the sale of intoxicating liquor in the Lakeside and Lester Park neighborhoods in order to determine what, if any, action on the matter the city will propose to the state legislature in its 2009 session.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby calls for an advisory referendum at a special municipal election to be held on November 4, 2008, on the question of allowing the sale of intoxicating liquor in the Lakeside and Lester Park neighborhoods.

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

To vote for the proposition, completely fill in the oval next to the word "YES" for that question.

To vote against the proposition, completely fill in the oval next to the word "NO" for that question.

NONBINDING PROPOSITION

Should the state statute which prohibits the issuance of licenses for the sale of intoxicating liquor in the Lakeside and Lester Park neighborhoods be repealed?

A "YES" vote means I support eliminating the state law which prohibits the sale of intoxicating liquor in the Lakeside and Lester Park neighborhoods.

A "NO" vote means I do not support eliminating the state law which prohibits the sale of intoxicating liquor in the Lakeside and Lester Park neighborhoods.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Resolution 08-0504 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Stauber and President Reinert -- 7

Nays: Councilor Krause -- 1

Absent: Councilor Gilbert -- 1

Approved August 11, 2008

DON NESS, Mayor

- - -

Resolution 08-0508, submitting a proposed amendment to Section 27 of the City Charter to the voters at a special election on November 4, 2008, was introduced by President Reinert for discussion.

Councilor Fedora moved to table the resolution for consideration of the companion ordinance on August 25, which motion was seconded and unanimously carried.

- - -

Resolution 08-0509, submitting a proposed amendment to Section 30 of the City Charter to the voters at a special election on November 4, 2008, was introduced by President Reinert for discussion.

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

George Hanson, Charter commission member, explained the rationale for this change, noting that it is basically where a citizen has a problem relative to a possible conflict of interest issue and changing the word "may" to "shall," that the council should hear the appeal to appoint a special prosecutor.

Councilor Fedora moved to table the resolution for consideration of the companion ordinance on August 25, which motion was seconded and unanimously carried.

- - -

Resolution 08-0484, accepting donation of amended easement from ISD 709 adjacent to Ordean Middle School for the Lakewalk trail, was introduced by Councilor Fosle for discussion.

Councilor Krause stated that he supports the expansion of the Lakewalk but was concerned about creating a long term operating cost, without reducing or deleting other expenditures, at this time of financial shortfalls.

Resolution 08-0484 was adopted as follows:

RESOLVED, that the proper city officials are authorized to accept the donation of an amended easement, a copy of which is on file in the office of the city clerk as Public Document No. 08-0811-17, from Independent School District No. 709, adding authority to use the easement, located on Ordean Middle School property, for the extension of the Lakewalk Recreational Trail.

Resolution 08-0484 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Gardner, Stauber and President Reinert -- 6

Nays: Councilor Krause -- 1

Abstention: Councilor Fosle -- 1

Absent: Councilor Gilbert -- 1

Approved August 11, 2008

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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. 08-0811-18 with the St. Louis and Lake Counties regional railroad authority for the construction and operation of the Lakewalk Recreational Trail from 36th Avenue East to 47th Avenue East at nominal cost.

Resolution 08-0496 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Stauber and President Reinert -- 7

Nays: Councilor Krause -- 1

Absent: Councilor Gilbert -- 1

Approved August 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an agreement with Salo Engineering, Inc., for professional engineering services for the 2009 municipal state aid project located on Woodland Avenue between Kent Road and Arrowhead Road, SAP 118-157-020, City Project No. 0243TR, in the estimated amount of \$376,126.57, payable from Permanent Improvement Fund 0411, Department/Agency 035, Object 5530.

Resolution 08-0497 was unanimously adopted.

Approved August 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized to accept a grant from the Duluth Superior Area Community Foundation in the amount of \$2,560, and to execute any required grant agreement, said agreement to be substantially in the form of Public Document No. 08-0811-20 on file in the office of the city clerk; funds to be deposited in Fund 210, Agency 030, Organization 3107.

Resolution 08-0500 was unanimously adopted.

Approved August 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized to accept a grant from the Lloyd K. Johnson Foundation in the amount of \$1,950, and to execute any required grant agreement, said agreement to be substantially in the form of Public Document No. 08-0811-21 on file in the office of the city clerk; funds to be deposited in Fund 210, Agency 030, Organization 3107.

Resolution 08-0501 was unanimously adopted.

Approved August 11, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized to accept a grant from the A.H. Zeppa Foundation in the amount of \$2,500; funds to be deposited in Fund 210, Agency 030, Organization 3107.

Resolution 08-0502 was adopted upon the following vote:

Yeas: Councilors Anderson, Fedora, Fosle, Gardner, Krause, Stauber and President Reinert -- 7

Nays: None -- 0

Abstention: Councilor Cuneo -- 1

Absent: Councilor Gilbert -- 1

Approved August 11, 2008

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCES TABLED

BY COUNCILORS KRAUSE AND FEDORA

08-044 - AN ORDINANCE PERTAINING TO THE DULUTH PUBLIC ARTS COMMISSION; AMENDING SECTION 2-109 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Councilor Krause moved to withdraw the ordinance from the agenda, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR STAUBER

08-048 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW SECTION 50-1.50.1 DEFINING THE RESIDENTIAL PARKING AREA, AMENDING SECTION 50-30 TO ESTABLISH THE AUTHORIZED PARKING AREAS ON A RESIDENTIAL LOT AND CREATING A VARIANCE FROM SUCH REGULATION.

Councilor Stauber 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.

George Hanson, Anthony Fillman, Daniel Matthes, Gary Kalligher, Dain Meyer and Kyle Smith expressed concerns that: there is confusion that some mistakenly think this ordinance allows front yard parking beyond the building set back and affects the occupancy in rental properties; this ordinance does not properly define what a front yard, pervious surface, gravel and set back are; specific blighted properties and behavior should be addressed, not all properties and individuals; this is a restriction on an individual's personal property; in some cases, there is no other location to park than on one's property, so it does not create a safety problem; this would say "no" to the students that are a part of the community and contribute to the economy; this ordinance will be a waste of police department resources; this is not a citywide issue, but a campus area issue; this ordinance needs to be simplified and redone with the input of all of the stakeholders and with this ordinance there will be more migration to areas off of Arrowhead Road.

Myrna Matheson, Jim Balmer, Joseph Martin, Craig Amundson, Susan Frey, Al Makynen, Gil Harries and Eldon Kilpatrick expressed support of the ordinance for the reasons of: the existing ordinance has been unenforceable and needs to be improved; Campus Neighbors have

been working on this since 2002; some yards have up to six vehicles parking in the yard; many rental houses have no alley, driveways or street parking; this does not change existing parking rules, it only clarifies them; there are parking lots where individuals needing parking could park; this ordinance applies throughout the city and is not specific to just students; those that own rental houses in this area do not care about the community, just collecting the rent; rental housing should be limited by the number of off street parking spots that the property has; this is a land use and esthetics issue; under this ordinance a police officer can determine where the side of a house is and where one can park; there is a "grandfathering in" clause; before this would go into effect, there is a time frame for necessary changes and there are situations in other parts of the city where this change will help.

Councilor Stauber moved to amend the ordinance by deleting subsection 50-30(f) and by stating that the effective date of the ordinance will be June 1, 2009, which motion was seconded and carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Gardner, Krause, Stauber and President Reinert – 7

Nays: Councilor Fosle -- 1

Absent: Councilor Gilbert -- 1

Councilors Stauber and Cuneo supported the ordinance because: the existing ordinance does not allow front yard parking, except by permit; if this passes, parking hardships can be granted by securing a variance; the planning staff and commission approved this; the ordinance is in compliance with the comprehensive plan; this only clarifies an existing situation so that it can be enforced by the police department; anything that is lawful today will be grandfathered in; most opposition is directed to the whole concept of front yard parking, not necessarily to this ordinance; if approved, this will not become effective until June 1, 2009; so further improvements can be made and there are locations throughout the city that need this ordinance.

Councilors Gardner and Fedora opposed the ordinance, having concerns of: the costs of getting a survey done; that there needs to be clear explanations to the public of what this means; there are situations where residents have a single driveway for multiple cars, which makes moving the car closest to the house difficult; these types of ordinances are being considered when the students are not in town; the parking commission's purpose is to review on and off street parking problems and they have not been presented with this issue; the reference to the way the parking area will be surfaced will be applicable to all parts of the city; economic hardship will not qualify for getting a variance, based on the definition of hardship and surveys will cost \$800.

Councilor Stauber moved passage of the ordinance and the same failed upon the following vote (Public Document No. 08-0811-22):

Yeas: Councilors Cuneo, Krause and Stauber -- 3

Nays: Councilors Anderson, Fedora, Fosle, Gardner and President Reinert -- 5

Absent: Councilor Gilbert -- 1

- - -

The following entitled ordinances were read for the first time:

BY COUNCILORS GILBERT AND GARDNER

08-059 - AN ORDINANCE ADDING SECTIONS 6-79 AND 6-79.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO OBTAINING A LICENSE TO KEEP CHICKENS IN CITY.

- - -

INTRODUCED BY COUNCILOR GARDNER

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

08-060 - AN ORDINANCE AMENDING SECTIONS 2-2, 2-2.1, 2-2.2, 2-2.4, 2-12 AND 2-17; REPEALING SECTIONS 2-3, 2-4, 2-5, 2-6, 2-7, 2-8, 2-9, 2-10, 2-11, 2-13 AND 2-14; RENUMBERING SECTIONS 2-12, 2-15, 2-16, 2-17, 2-18.1 and 2-18.2 OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO CITY ADMINISTRATION.

- - -

INTRODUCED BY PRESIDENT REINERT

08-061 - AN ORDINANCE AMENDING SECTION 27 OF THE CITY CHARTER TO REQUIRE BOARD AND COMMISSIONS TO ADOPT BYLAWS REGULATING CONDUCT OF BUSINESS AND PUBLIC PARTICIPATION.

- - -

INTRODUCED BY PRESIDENT REINERT

08-062 - AN ORDINANCE AMENDING SECTION 30 OF THE CITY CHARTER TO ALLOW A CITIZEN TO PETITION FOR APPOINTMENT OF A SPECIAL PROSECUTOR TO PROSECUTE CONFLICTS OF INTEREST.

- - -

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR FOSLE

08-058 - AN ORDINANCE REPEALING SPRINKLING ALLOWANCE ON SANITARY SEWER BILLS, REPEALING SECTION 43-9 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Roman Pass expressed concern over the accuracy of the figures stated as a loss, because it is based on water that never enters the sewer system.

Jim Benning, director of the public works and utilities department, stated that the elimination of the sprinkling credit is part of complying with a new conservation law going into effect on January 1, 2010.

The council discussed other possible options to comply with this new law.

The ordinance failed upon a unanimous vote (Public Document No. 08-0811-23).

- - -

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

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 25, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

- - -

The minutes of the council meeting held on June 9, 2008, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0825-01 A&L Properties petition to vacate portion of alley, Tioga and Oneida streets and 63rd Avenue East, Blocks 57 and 64, Lester Park Fourth Division. - Assessor

08-0825-02 The following communications regarding proposed ordinance creating a street lighting system utility (08-064-O): (a) Jerome Carlson; (b) Jeff Hall; (c) Rodney Lubiani. -- Received

08-0825-07 The following communications regarding proposed resolution and ordinances pertaining to keeping chickens in the city (08-0498R, 08-020-O and 08-059-O): (a) Kirsten Aune; (b) Eddy Gilmore; (c) Tom Hollenhorst; (d) Theresa Koenig; (e) Francois Medion; (f) Mary Roe; (g) Marian Syrjamaki-Kuchta. -- Received

08-0825-08 The following communications regarding resolution amending comprehensive plan pertaining to certain property on Park Point (08-0534R): (a) Janet Draper; (b) Karl and Jan Olson; (c) Heather Rand; (d) Kinnan Stauber. -- Received

08-0825-03 The following communications regarding resolution of intent to sell the Minnehaha stained glass window (08-0535R): (a) Roxanne Bijold; (b) Mark Brown; (c) Glen Filipovich; (d) Judith Fredrickson; (e) Charlene Harms; (f) Heritage preservation commission; (g) Ann Jenkins; (h) Mary Vanderwerp; (i) Barbara Walcome; (j) Mark Wick; (k) Donn Wolean. -- Received

08-0825-09 The following communications regarding resolution requesting a report on current enforcement strategies of the housing and nuisance event codes in the Central Hillside neighborhood (08-0544R): (a) Anne Krafthefer; (b) Jodi Voelker. -- Received

08-0825-10 The following communications regarding resolution requesting that the administration revise budget balancing plan to preserve facilities and jobs by re-evaluating other costs and temporarily suspending payments on certain contracts (08-0545R): (a) Nickoel Anderson; (b) Erin Bates; (c) M. Bibbey; (d) Tony Boen; (e) Stan and Jan Burns; (f) Ron Carlson; (g) Bonnie Chapman; (h) Jay Constantini; (i) Nicole Crabtree; (j) Jennifer Dolezilek Sternberg; (k) Janet Draper; (l) Joe Fetter; (m) John Glendenning, Jr.; (n) Angela George; (o) Richard Harms; (p) Robert and Riksene Higgins; (q) Dave Holappa; (r) Tom Hollenhorst; (s) Claire Kirch; (t) Jenny Kroft; (u) Paul Laskowski; (v) Judith Long; (w) Jim Olson; (x) Elizabeth Sandwick; (y) John and Pat Thompson; (z) Mary Vanderwerp; (aa) Sharon Whelan. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

- 08-0825-06 Alcohol, gambling and tobacco commission minutes of July 2, 2008, meeting. -- Received
- 08-0825-04 Duluth/North Shore Sanitary District minutes of June 11, 2008, meeting. -- Received
- 08-0825-05 Planning commission minutes of July 8, 2008, meeting. -- Received

- - -

At this time, 7:05 p.m., the public hearing regarding the proposed amendment to City Charter Section 27 pertaining to boards and commissions adopting bylaws regulating conduct of business and public participation, was called to order.

No one appeared who wished to be heard and the public hearing was closed at 7:06 p.m.

- - -

At this time, 7:06 p.m., the public hearing regarding the proposed amendment to City Charter Section 30 to allow a citizen to petition for appointment of a special prosecutor to prosecute conflicts of interest, was called to order.

No one appeared who wished to be heard and the public hearing was closed at 7:07 p.m.

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Stan Morrow stated that the mayor is doing a good job and has bright ideas and is tackling issues that past politicians have set aside and let fester and added that the city should sell off possessions instead of laying off employees who have to feed families.

- - -

KL Lewis stated that the city needs to clarify its priorities and listed suggestions for helping with the budget crisis.

- - -

Frank McMurrrough urged the city to revoke rental licenses to make landlords responsible for their tenants' behavior.

- - -

Jerry Schlafer suggested that donation sites be set up for the budget crisis where the public could donate if they wanted to and challenged the councilors to help with the budget by chipping in to help prevent people from being laid off.

- - -

Dan Smith and Chris Zupfer thanked the administration and the fire department for helping with the Muscular Dystrophy Fill the Boot fund raiser.

- - -

Mike Busick explained that the city assessor's office is understaffed and soon will be losing two appraisers, which will cause more inequalities throughout the city as houses can be under or overvalued due to the lack of inspection by the city.

- - -

Carol Kerzinski stated that with the loss of two appraisers there will be 1,800 fewer parcels revalued, which is a source of revenue for the city.

- - -

Tom Wright stated the city needs to take back the Armory and tear it down or put it on the tax roles since the group who took it over has not done anything with it for the last four years. He

also stated that if the city needs to cut back because there is no money coming in, then city workers need to go even though it is unfortunate.

- - -

RESOLUTIONS TABLED

Councilor Gardner moved to remove Resolution 08-0498, amending Resolution 07-0723 adopting license, permit and fee charges for 2008; setting the fee for the new keeping of chickens license, by councilors Gilbert and Gardner, from the table, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCE TABLED

BY COUNCILORS GILBERT AND GARDNER

08-020 (9925) - AN ORDINANCE AMENDING SECTION 50-55.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO KEEPING CHICKENS IN CITY.

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

- - -

The following entitled ordinance was read for the second time:

08-059 (9926) - AN ORDINANCE ADDING SECTIONS 6-79 AND 6-79.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO OBTAINING A LICENSE TO KEEP CHICKENS IN CITY.

Councilor Gardner moved to consider the ordinance at this time, which motion was seconded and unanimously carried.

Councilor Fosle explained that while the ordinances address many of his concerns, he cannot support them as chickens belong on a farm and not in the city.

Councilor Krause stated that this would be regressive as we are trying to show that we are moving forward in Duluth and chickens in neighborhoods would not be a benefit to recruit businesses to the city.

- - -

Councilor Gardner moved passage of Ordinance 08-020 and the same was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Stauber and President Reinert -- 6

Nays: Councilors Fedora, Fosle and Krause -- 3

- - -

Councilor Gardner moved passage of Ordinance 08-059 and the same was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Stauber and President Reinert -- 6

Nays: Councilors Fedora, Fosle and Krause -- 3

- - -

Resolution 08-0498 was adopted as follows:

BY COUNCILORS GILBERT AND GARDNER:

RESOLVED, that pursuant to Duluth City Code Section 6-79, Resolution 07-0723 adopting license, permit and fee charges for 2008 be amended to add the following fee:

Clerk	
License, permit, fee name	2008 Fee
Chickens, keeping of - annual	\$10.00

Resolution 08-0498 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Stauber and President Reinert -- 6

Nays: Councilors Fedora, Fosle and Krause -- 3

Approved August 25, 2008

DON NESS, Mayor

- - -

Councilor Krause moved to remove resolutions 08-0384 and 08-0385, approving and denying, respectively, the permanent expansion of the on sale intoxicating liquor license of Lucky Break, Inc. (Horseshoe Billiards), 2415 West Superior Street, from the table, which motion was seconded and unanimously carried.

Resolution 08-0384 was adopted as follows:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor license for the period ending August 31, 2008, subject to departmental approvals:

Lucky Break, Inc. (Horseshoe Billiards), 2415 West Superior Street.

Resolution 08-0384 was unanimously adopted.

Approved August 25, 2008

DON NESS, Mayor

- - -

Resolution 08-0385 failed unanimously (Public Document No. 08-0825-11).

- - -

President Reinert moved to remove Resolution 08-0508, submitting a proposed amendment to Section 27 of the City Charter to the voters at a special election on November 4, 2008, from the table, which motion was seconded and unanimously carried.

President Reinert withdrew the resolution from the agenda.

- - -

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

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,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

subject to departmental approvals, with any specific restrictions:

Fond du Lac Management, Inc. (Fond du Luth Casino), 129 East Superior Street, for September 4, 2008, from 5:00 p.m. to 9:00 p.m.

S&D Enterprises, Inc. (Gopher Restaurant & Lounge), 402 North Central Avenue, for September 6, 2008, from 8:00 p.m. to midnight.

Historic Union Depot, Inc. (The Depot), 506 West Michigan Street, for August 28, 2008, from 5:00 p.m. to 8:00 p.m.

Resolution 08-0511 was unanimously adopted.

Approved August 25, 2008

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the renewal and issuance of 78 on sale intoxicating liquor, 80 on sale Sunday intoxicating liquor, six additional bar, 11 on sale dancing, two late hour entertainment licenses and 33 2:00 a.m. beverage licenses, for the period beginning September 1, 2008, and ending August 31, 2009, 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. 08-0825-12.

Resolution 08-0513 was unanimously adopted.

Approved August 25, 2008

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of 15 on sale wine licenses for the period beginning September 1, 2008, and ending August 31, 2009, 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. 08-0825-13.

Resolution 08-0514 was unanimously adopted.

Approved August 25, 2008

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of seven on sale club liquor licenses for the period beginning September 1, 2008, and ending August 31, 2009, 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. 08-0825-14.

Resolution 08-0515 was unanimously adopted.

Approved August 25, 2008

DON NESS, Mayor

- - -

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, 2008, and ending August 31, 2009, for issuance by the liquor control commissioner and further subject to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 08-0825-15.

Resolution 08-0516 was unanimously adopted.
Approved August 25, 2008
DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of two brewery malt liquor off sale intoxicating liquor licenses for the period beginning September 1, 2008, and ending August 31, 2009, 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. 08-0825-16.

Resolution 08-0517 was unanimously adopted.
Approved August 25, 2008
DON NESS, Mayor

- - -

RESOLVED, that the Duluth City Council does hereby request that the appropriate city staff be directed to review the functions and operations of the city's boards and commissions with a view toward promoting and enhancing the efficiency of those bodies reasonably necessary and beneficial to city operations and to eliminating those for which there is not a present need.

Resolution 08-0539 was unanimously adopted.
Approved August 25, 2008
DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city clerk requesting the vacation of 14th Avenue West adjoining Lot 224, Block 133, and Lot 226, Block 132, Duluth Proper Second Division (FN 08079); and

(b) 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, the city planning commission found that the petitioned avenue is useless, based on the findings that, because the petitioned avenue is undeveloped and will not likely be developed due to steep topography, there will be no negative impacts to the superior hiking trail, and an easement can protect Minnesota power electrical lines; and

(c) The planning commission, at its August 12, 2008, regular meeting did approve, unanimously, vacating the avenue petitioned for vacation; and

(d) That the city council of the city of Duluth approves the vacation of the following and as more particularly described on Public Document No. 08-0825-17: that part of 14th Avenue West adjoining Lot 224, Block 133, and Lot 226, Block 132, Duluth Proper Second Division, retaining a utility easement over the east half of the vacated avenue; and

(e) That the city clerk is hereby directed to record with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the street and alley to be vacated.

Resolution 08-0522 was unanimously adopted.
Approved August 25, 2008
DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city clerk requesting the vacation of the west four feet of the alley located east of Garfield Avenue and south of Elm Street adjoining Lots 162 through 168, Block 38, Rices Point Duluth; and

(b) 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 (FN 08073); and, the city planning commission found that the vacation of the petitioned alley will still allow use of the alley, is the minimum needed to repair the building, and a utility easement will protect Minnesota Power electrical lines; and

(c) The planning commission, at its August 12, 2008, regular meeting did approve, unanimously, vacating the alley petitioned for vacation; and

(d) That the city council of the city of Duluth approves the vacation of the following and as more particularly described on Public Document No. 08-0825-18:

(1) Vacation of that part of alley lying within four feet of Lots 162, 164, 166 and 168, Block 38, Rices Point, retaining a utility easement over said vacated alleyway; and

(e) That the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the street and alley to be vacated.

Resolution 08-0525 was unanimously adopted.

Approved August 25, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to pay to Donald and Gerda Mook the sum of \$21,514.71 in full and final settlement of the claim which arose out of a break in a city watermain occurring near 4850 Glendale Street on February 26, 2008; payment to be made from the Self Insurance Fund 610-036-1652-5841.

Resolution 08-0519 was unanimously adopted.

Approved August 25, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Kalkbrenner Plumbing and Heating, Inc., for the 2008 rehabilitation of private sewer services for the engineering division in accordance with its bid of \$149,880, payable out of Sanitary Sewer Fund 530, Department/Agency 500, Organization 1970, Object 5535, City Project No. 0723SN.

FURTHER RESOLVED, that the city council finds that Apex Mechanical is not a responsible bidder and therefore rejects its bid because of the following:

(a) Bidder has no experience in performing CIPP lining work;

(b) Bidder has not yet been certified and/or licensed as an installer by the CIPP manufacturer;

(c) Bidder has not successfully installed a minimum of 1,000 feet of lateral lining per Section SP-9.4 of the contract specifications;

(d) Bidder has not produced evidence that it has the crews to start work without undue

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

delay and the experience and equipment to finish the work in a timely manner.

Resolution 08-0537 was unanimously adopted.

Approved August 25, 2008

DON NESS, Mayor

- - -

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 28, 2008, from 6:00 p.m. to 9:00 p.m. in conjunction with the Duluth Superior GLBT Pride Festival, on Superior Street, between First and Second Avenues East on September 4, 2008, from 5:00 p.m. to 9:00 p.m. in conjunction with the Greater Downtown Council Rock the Block, and on Ramsey Street, between Central Avenue and the alley on September 6, 2008, from 8:00 p.m. to midnight in conjunction with the Irving Community Association's West Duluth Junior Football fundraiser 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 08-0510 was unanimously adopted.

Approved August 25, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to enter into a three-year professional services agreement with Complus Data Innovations, Inc., with said agreement to be substantially in the form of Public Document No. 08-0825-19 on file in the office of the city clerk, for the administration and collection of revenue from parking and other citations for a maximum fee not to exceed 13 percent of citation fees collected, with said funds to be deposited into General Fund 100, Agency 030, Organization 1324, Revenue Source 4472.

Resolution 08-0526 was unanimously adopted.

Approved August 25, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept Grant Amendment No. 1 to Grant Contract No. 2007-0045/9300-1862 from the state of Minnesota, commissioner of public safety, office of justice programs, a copy of which amendment is on file in the office of the city clerk as Public Document No. 08-0825-20, in the amount of \$50,000, said funds to be deposited in Fund 215, Agency 200, Organization 2259, Revenue Source 4220-02, for the purpose of supporting the Duluth police department's participation in the Minnesota financial crimes task force and to execute the grant amendment agreement.

Resolution 08-0527 was unanimously adopted.

Approved August 25, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized to accept from the Minnesota department of public safety, office of justice programs, a grant, a copy of which is on file in the office of the city clerk as Public Document No. 08-0825-21, in the amount of \$8,300, said funds to be deposited in Fund 215, Agency 200, Organization 2284, Revenue Source 4220-02, in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

support of the anti-gang initiative and to execute any documents required to be executed to accept such grant.

Resolution 08-0528 was unanimously adopted.
Approved August 25, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept Grant Agreement No. 2008-HSGP-00747/2000-12500 from the Minnesota department of public safety, homeland security and emergency management division, a copy of which amendment is on file in the office of the city clerk as Public Document No. 08-0825-22, in the amount of \$75,000, said funds to be deposited in Fund 210, Agency, 030, Organization 3171, Revenue Source 4210-02, for the purpose of supporting the Duluth fire department's chemical assessment team.

Resolution 08-0529 was unanimously adopted.
Approved August 25, 2008
DON NESS, Mayor

- - -

WHEREAS, the city of Duluth supports the grant application made to the Minnesota department of natural resources for the federal grant program and the cross-country ski capital improvement grant-in-aid programs; and

WHEREAS, the city of Duluth will act as the legal sponsor for the application made to the department of natural resources for the reimbursement grant; and

WHEREAS, the project is for the rehabilitation of the Chester Creek trail bridge; and

WHEREAS, the city of Duluth recognizes the 50 percent match requirement for the federal recreational trail grant program is the cross-country ski capital improvement grant-in-aid program.

RESOLVED, that the proper city officers are authorized to accept a grant from the state of Minnesota, department of natural resources, in the amount of \$6,800 and to execute any required grant agreement.

RESOLVED FURTHER, that the city of Duluth will comply with all applicable laws, environment requirements and regulations as stated in the grant agreement.

RESOLVED FURTHER, that the fiscal agent for the project is Genie Stark, finance director, city of Duluth, 411 West First Street, Duluth, MN 55802.

RESOLVED FURTHER, that the federal funds shall be deposited in Fund 100, Agency 500, Organization 1920, Sub-organization 2550, Revenue Source 4210-02, and that the state funds shall be used as the source of the city's matching fund requirement and shall be deposited in Fund 100, Agency 500, Organization 1920, Sub-organization 2550, Revenue Source 4225.

Resolution 08-0520 was unanimously adopted.
Approved August 25, 2008
DON NESS, Mayor

- - -

The following resolutions were also considered:

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, 2009, and approves issuance of an on sale wine license for the period beginning September 1, 2008, and ending August 31, 2009, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

GR, LLC (Grapevine Café), 220 West Superior Street, with Debra Ann Livadaros, chief manager, with 52 percent of shares, Alexis Livadaros, treasurer, and 45 percent of shares, Christina Livadaros, secretary, with one percent of shares, Catherine Livadaros, member, and one percent of shares, and Jason Livadaros, member, and one percent of shares.

Resolution 08-0512 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Gilbert -- 1

Approved August 25, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC, for construction of year 2008 street preservation program for the engineering division for the apparent low bid of \$404,410, payable out of Street Improvement Program Fund 0440, Department/Agency 038, Object 5530, City Project No. 0608TR.

Resolution 08-0538 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Fedora -- 1

Approved August 25, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to appropriate an additional \$100,000 to the general fund for unreimbursed tourism related expenses, per 2008 budget recovery strategies; said sums shall be appropriated from the Tourism Tax Fund 258 fund balance.

Resolution 08-0541 was unanimously adopted.

Approved August 25, 2008

DON NESS, Mayor

- - -

Resolution 08-0545, by Councilor Gilbert, requesting that the administration revise budget balancing plan to preserve facilities and jobs by re-evaluating other costs and temporarily suspending payments on certain contracts, was introduced for discussion.

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

Leslie Dollen requested the city not close the branch libraries as there is limited parking Downtown which will now become worse once people start coming Downtown for the library; it will have a bad impact on low income people, especially the children of those families who need to access the neighborhood libraries for resource material or internet access and do not have a car or bus access to get Downtown and people losing their jobs will leave Duluth when the city does not value their parks and libraries.

Brian Dougherty explained that the city needs to raise revenues and not cut services and urged the council not to cut the Visit Duluth funding as it would obliterate the highest yielding industry, which is the tourist industry. He continued by saying that the tourism tax has turned the

Waterfront into a popular tourist destination, bringing in visitors whose expenditures help create lots of jobs and community events. Mr. Dougherty reviewed that the beneficiaries of a thriving tourism industry are the citizens of Duluth.

Kristi Schmidt, chair of the Visit Duluth board of directors, reviewed that Visit Duluth is one of the city's most successful long time partners in economic development, generating millions of new dollars in benefits each year, and urged the council not to take money from their sales and marketing effort, which would set a dangerous precedent. She stated that less money for marketing means less tax revenues to support basic city services.

Joel Sipress agreed that fixing the budget crisis will cause some pain with the reduction in city services, but it is not acceptable to discontinue the services that make neighborhoods a small community, while other things are not even considered to be put on the table.

Deb Strohm stated that the council has an opportunity to avert 26 AFSCME layoffs, save park services and reopen libraries, and also stated that the city is breaking the AFSCME contract and violating the Civil Service Code, the 15 year old court order and PELRA by retaining temporary employees and refusing to end the subcontracting of work.

Erin Bates stated that the purpose of any municipal recreation department is to analyze the recreational wants and needs of a community and fill the gaps of those needs.

Chelsey Youngberg urged the council not to close Portman Recreation Center as it is a place where the neighborhood kids and senior citizens come together.

Sue Schumacher urged the council not to close the libraries as the services they provide are invaluable to the citizens of Duluth.

Jay Seiler stated that tourists are a major part of his store's sales, with many tourists coming back every year, and that money invested in Visit Duluth has a great return on the investment.

John Rafte stated the mayor's plan is a necessary solution to try and fix this budget crisis.

Tess Dandrea urged the council not to cut funding to Visit Duluth as their marketing brings students to the colleges in Duluth and they may end up staying to find jobs.

Kristi Stokes, representing the Greater Downtown Council, reviewed that the special service district is the reinvestment of voluntary tax dollars of the property and business owners in the Downtown, including the city of Duluth, and in return they are getting a clean and safe Downtown which helps generate money for the city by bringing more people into the Downtown.

Abbot Apter stated that the \$200,000 a year that the city puts into the special service district provides cleanliness and safety that is needed for the Downtown, and to cut that amount in half would send the wrong message to property and business owners.

Eric Simonson stated that this resolution brings forward alternative ideas to help save core services and prevent the layoffs of city staff.

Al Netland stated that to avert layoffs, restore parks, keep libraries open and prevent 26 people from losing jobs, councilors need to support this resolution or bring forward ideas to help save these jobs and prevent the loss of core services if they do not support this resolution.

Mayor Ness reviewed that his administration has been stressing to the public and council how serious the budget situation is and has been trying to eliminate the services that are not core services to the community. He continued by saying that he does not want to cut public safety or services to the public, but he is trying to get the city on firm financial footing so there are no more multi million dollar deficits each year. Mayor Ness stated this resolution would expend trust fund dollars, but his administration does not want to expend the trust fund or create debt.

Councilor Krause stated that money from the community investment trust fund should only

be spent on streets and he cannot support money going anywhere else.

Councilor Anderson questioned what the legalities are in breaking the contracts with Visit Duluth or the Greater Downtown Council and also questioned what percentage of dollars can be used from tourism taxes for city services that may be cut.

City Attorney Gunnar Johnson reviewed that the resolution would request the suspension of payments to the organizations, which payments could be made at a later time.

Chief Administrative Officer Lisa Potswald stated that the city transfers \$1 million from the tourism tax revenues and would not be able to transfer any more money according to state law and state auditor's office.

Councilor Cuneo moved to divide the resolution, where 08-0545(a) deals with the housing investment fund, 08-0545(b) deals with the Greater Downtown Council contract and 08-0545(c) deals with the Visit Duluth contract, which motion was seconded and carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Krause and President Reinert -- 6

Nays: Councilors Fedora, Fosle and Stauber -- 3

President Reinert stated that he along with councilors Cuneo and Anderson have drafted a replacement resolution to commit the 2009 housing investment fund (HIF) dollars to the general fund besides the 2008 HIF monies and questioned if Councilor Gilbert would accept this replacement resolution. Councilor Gilbert agreed to the replacement resolution.

Councilor Fedora questioned if the money from the HIF was for the low to moderate income families to use to replace their lateral lines.

President Reinert replied that the administration had proposed that but the council has never acted upon that request. He explained that spending the \$600,000 from the HIF over the next two years for the infrastructure of libraries and parks has priority over spending the money on sewer lateral lines.

Resolution 08-0545(a) was adopted as follows:

BY PRESIDENT REINERT AND COUNCILORS CUNEO AND ANDERSON:

WHEREAS, the council acknowledges the seriousness of the 2008 budget operating deficit and the projected 2009 deficit, and acknowledges its responsibility to work constructively with the administration to balance the budget; and

WHEREAS, the council acknowledges the efforts of the administration to balance the budget; and

WHEREAS, the council acknowledges the need to constantly review and improve the operations of city government; and

WHEREAS, there are currently 194 fewer employees than in 1999 (1,002 in 1999, 808 in 2008) and the council agrees with the administration that the city is already short-staffed; and

WHEREAS, the council believes the seriousness of the budget and the proposed cuts warrants a reprioritization of city initiatives; and

WHEREAS, public life, which includes such areas as libraries, parks and public recreation, are important components of city infrastructure.

NOW, THEREFORE, BE IT RESOLVED, that the council requests the administration reconsider its plan to close libraries and to lay off library and parks and recreation employees in consideration of additional fiscal resources.

FURTHER RESOLVED, that the council requests that the administration transfer all of the 2008 housing investment fund which has not already been spent to the general fund to be used

to maintain city staffing, with a priority on restoring cuts to public life infrastructure programs (libraries and parks and recreation).

FURTHER RESOLVED, that the council requests that the administration transfer the monies budgeted to the 2009 housing investment fund to the general fund in 2009 to maintain city staffing, with an emphasis on public life infrastructure programs.

Resolution 08-0545(a) was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause and President Reinert -- 7

Nays: Councilors Fedora and Stauber -- 2

Approved August 25, 2008

DON NESS, Mayor

- - -

Councilor Gilbert withdrew resolutions 08-0545(b) and 08-0545(c) from consideration.

- - -

Resolution 08-0518, approving renewal and issuance of on sale intoxicating liquor, on sale Sunday intoxicating liquor, additional bar, on sale dancing and 2:00 a.m. beverage licenses for the period beginning September 1, 2008, and ending August 31, 2009, with special conditions, for Norshor Experience, Inc. (Norshor Experience), Grandma's Sports Bar and Grill, Inc. (Grandma's Sports Garden), Black River Mills, Inc. (Kozy Bar), and Curly's Bar, Inc. (Curly's Bar), was introduced by Councilor Krause for discussion.

Councilor Fedora stated the city should be able to renew the licenses for only six months in order to review licensees' police call for service records.

Resolution 08-0518 was adopted as follows:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the renewal and issuance of the on sale intoxicating liquor, on sale Sunday intoxicating liquor, additional bar, on sale dancing and 2:00 a.m. beverage licenses as listed on Public Document No. 08-0825-23, for the period beginning September 1, 2008, and ending August 31, 2009, subject to departmental approvals and the payment of sales and property taxes, as provided in the Duluth City Code, and further subject to the licensees submitting their action plan to the city by August 29, 2008, specifically stating how they will reduce the number of police service calls to their establishment.

Resolution 08-0518 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: Councilor Fedora -- 1

Approved August 25, 2008

DON NESS, Mayor

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Resolution 08-0506, approving proposed amendment to the pay range for the appointed position of deputy fire chief, was introduced by Councilor Gardner.

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

- - -

Resolution 08-0536, approving proposed amendment to the pay range for the civil service classification of fleet manager, was introduced by Councilor Gardner.

Councilor Gardner moved to table the resolution, which motion was seconded and

unanimously carried.

- - -

Resolution 08-0544, by Councilor Gardner, requesting a report on current enforcement strategies of the housing and nuisance event codes in the Central Hillside neighborhood, was introduced for discussion.

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

Debbie Isabell Nelson urged the city to start dealing severely with problem landlords by increasing the fines of repeat code enforcement inspections and police calls in order to encourage property owners to provide better and safer management of their rental properties.

Councilor Gilbert moved to amend the last paragraph of the resolution, inserting the phrase "as well as Minnesota's nuisance laws" after the phrase "housing and nuisance event codes," which motion was seconded and unanimously carried.

Councilor Fedora offered a friendly amendment to replace the words "Central Hillside" with "neighborhoods in the city of Duluth," which Councilor Gardner accepted.

Resolution 08-0544, as amended, was adopted as follows:

BY COUNCILOR GARDNER:

The city council finds as follows:

(a) The purpose of the Duluth Legislative Code, Chapter 29A, (the Housing Code) is to ensure public health, safety and welfare insofar as they are affected by the occupancy and maintenance of structures and premises; and

(b) The purpose of the Duluth Legislative Code, Chapter 40, Article III, (Nuisance Event Code) is to impose on and collect a fee from the person or persons in charge of or responsible for nuisance events or activities that generate extraordinary cost to the city over and above the cost of providing normal law enforcement services and police protection citywide; and

(c) That violations of the Housing Code in rental properties have a substantial negative impact on those citizens of Duluth who reside in such rental properties; and

(d) That nuisance events have a substantial negative impact on the surrounding neighborhood and its residents; and

(e) That neighborhoods in the city of Duluth are especially vulnerable to the negative impacts of housing code violations in rental properties and the occurrence of nuisance events as demonstrated by recent events; and

(f) That the maintenance of rental properties in conformance with the Housing Code is a legal duty of the owner; and

(g) That nuisance events occurring on rental properties are events that a landlord has the legal authority to prevent through an eviction process; and

(h) That the prevention of Housing Code violations and nuisance events promotes the public safety; and

(i) That recent communications received by the council from concerned citizens of Duluth and residents of neighborhoods in the city of Duluth demonstrate the need to evaluate existing laws and enforcement practices; and

(j) Pursuant to Chapter III, Section 7(B), of the Duluth City Charter the council is authorized to conduct an investigation on any subject upon which it may legislate, and in order to determine whether to conduct an investigation of current housing and nuisance event codes, the council requires information on current enforcement practices.

RESOLVED, that the city council requests a written report from the administration within 30 days informing it of the enforcement practices relating to the housing and nuisance event codes as well as Minnesota's nuisance laws currently utilized in the neighborhoods in the city of Duluth and an assessment of the current status of the public safety in neighborhoods in the city of Duluth resulting from such practices.

Resolution 08-0544, as amended, was unanimously adopted.

Approved August 25, 2008

DON NESS, Mayor

- - -

Resolutions 08-0523 and 08-0524, granting and denying, respectively, an amendment to a low density planned development special use permit for Bayhill Cove, a cluster housing development of 15 homes located on the east side of Bayhill Drive south of Pulaski Street/75th Avenue West (S.V. Bayhill, LLC), were introduced by Councilor Stauber for discussion.

Councilor Krause moved to amend Resolution 08-0523 by deleting subparagraph (d)(2) at the end of the resolution, which motion was seconded and carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Krause and Stauber -- 6

Nays: Councilors Fedora, Fosle and President Reinert -- 3

Resolution 08-0523, as amended, was adopted as follows:

RESOLVED, that the city council finds the following:

(a) S.V. Bayhill, LLC, has submitted to the city a request for an amendment to an existing approved special use permit for a 15 dwelling low density planned development on property legally described as follows:

(1) That part of Government Lot 2, Section 24, and that part of the SW1/4, SW1/4, Section 13, T49N, R15W, lying southeasterly and south of a line described as follows: commencing at the northwest corner of said Section 24, thence south 0 degrees 29 minutes 58 seconds east (assumed bearing) along the west line of said Section 24 a distance of 1,177.03 feet to the beginning of the line to be described; then north 32 degrees 34 minutes 45 seconds east along the southeasterly right-of-way line Burlington Northern, Inc. (formerly the Duluth transfer track of the Northern Pacific Railway) also being the northwesterly right-of-way line of the Lake Superior and Mississippi Railroad as described in deed recorded in Book K of Deeds, page two, to the south line of said SW1/4 of SW1/4; then continuing northeasterly along the said southeasterly right-of-way line of the Burlington Northern, Inc., to the south line of Pulasky Street; thence southeast along the south line of Pulasky Street to the east line of said SW1/4 of SW1/4 except that part of Government Lot 2, Section 24, T49N, R15W, lying southeasterly, southerly and westerly of a line described as follows: commencing at the northwest corner of said Section 24, thence south 0 degrees 29 minutes 58 seconds east (assumed bearing), along the west line of said Section 24 a distance of 1,297.96 feet to the beginning of the line to be described; thence north 32 degrees 34 minutes 45 seconds east along a line 66.00 feet distant and parallel with the southeasterly right-of-way of Burlington Northern, Inc. (formerly the Duluth transfer track of the Northern Pacific Railway) a distance of 212.00 feet; thence south 57 degrees 25 minutes 15 seconds east a distance of 46.51 feet; thence southerly and easterly along a tangential curve concave to the north having a radius of 183.00 feet and a central angle of 49 degrees 21 minutes 28 seconds a distance of 157.65 feet and the cord of said curve bears south 82 degrees 05 minutes 59 seconds east; thence south 11 degrees 07 minutes 58 seconds east a distance of 307 feet, more or less, to the northwesterly bank of the St. Louis River and said line there terminating.

Except that part platted as Spirit Cove Division; and

(2) Lots 19 through 24, Block 33, Hunter and Markells Grassy Point Addition, according to the plat thereof; and

(3) Lots 26 through 29, Block 34, Hunter and Markells Grassy Point Addition, according to the original plat thereof on file and of record in the office of the register of deeds; in an for said St. Louis County, Minnesota, in Book C of Plats, page 130; and

(b) Said permit application was duly referred to the city planning commission for a study, report and public hearing held during the regular meeting on August 11, 2008, and the commission has subsequently reported its recommendation of conditional approval to the city council; and

(c) The applicant's compliance with conditions set out in this permitting resolution will remedy any shortcomings identified by the city planning commission's findings of inadequacies in the submitted documents, and that compliance with the conditions contained herein will adequately protect the comprehensive plan and conserve and protect property values in the neighborhood and comply with City Code Section 50-32; and

(d) That a special use permit amendment is hereby granted to S.V. Bayhill, LLC, to construct a 15 unit cluster housing development on the above described property, subject to the following terms and conditions:

(1) That the project be limited to, constructed and maintained in accordance with the following plans, with the addition of a sidewalk adjacent to one side of the roadway:

(A) Site plan and grading plan (c6) and grading/fill plan (c7) by Master Engineering entitled "Bayhill Cove," dated May 10, 2006, and date stamped by the planning department June 30, 2008, with the addition of a sidewalk adjacent to one side of the roadway;

(B) Building plans by Fox-1, entitled "SV Bay Hill LLV - Phase II," dated stamped June 30, 2008, in the planning department with plans having the following title:

1. Plan A - "The Spirit of the Bay";
2. Plan B - "The Bay View";
3. Plan C - "The Bay Walk";
4. Plan D - "The Back Bay";
5. Plan E - "The Back Bay #2";
6. Plan F - "The Back Bay #3";
7. Plan G - "The Back Bay #4";

(C) "Entry Monument Sign, L1," by Markell-labree Design Group (no date).

Resolution 08-0523, as amended, was unanimously adopted.

Approved August 25, 2008

DON NESS, Mayor

- - -

Resolution 08-0524 failed unanimously (Public Document No. 08-0825-24).

- - -

Resolution 08-0530, denying an amendment to Chapter 50 of the Duluth City Code, 1959, as amended, amending Public Document No. 03-0324-15 entitled "Ramsey Village Neighborhood Documents of Implementation" (SVCNDA), was introduced by Councilor Stauber for discussion.

Councilor Stauber moved to table the resolution for consideration with Ordinance 08-063 on September 8, which motion was seconded and unanimously carried.

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Resolutions 08-0531 and 08-0532, issuing and denying, respectively, C-5 plan approval to Duluth Hill, LLC, for development of property located at Mall Drive and Central Entrance (Texas

Roadhouse), were introduced by Councilor Stauber for discussion.

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

Jim Shoberg urged passage of Resolution 08-0531 and stated he was available for questions.

Councilor Krause moved to amend Resolution 08-0531 by adding the sentence, "the entrance sign will be located as identified on sheet C4 (July 1, 2008)," to the end of the resolution, which motion was seconded for discussion.

Councilor Krause stated that the amendment would ensure that the sign would not get moved to another location on the property once the project is started.

Councilor Krause's amendment unanimously carried.

Resolution 08-0531, as amended, was adopted as follows:

RESOLVED, that:

(a) Duluth Hill, LLC, has submitted to city a request for C-5 plan approval, in accordance with Section 50-140(a) of the City Code, for a 7,485 square foot building to include parking and landscaping on property described as Lot 1, Block 2, The Home Depot Duluth Addition; and said application was duly referred to the city planning commission for study, report and public hearing, and the city planning commission has subsequently reported its approval to city council; and

(b) At the August 12, 2008, meeting of the city planning commission a recommendation for approval was made by the commission with findings of compliance with the appropriate standards of the ordinance and compliance with the city comprehensive plan; and

(c) The city council of the city of Duluth hereby approves the C-5 plan review to Duluth Hill, LLC, for the development of a 7,485 square foot restaurant with the conditions that the development be limited to and constructed and maintained in accordance with conditions and plans as described in the staff report dated August 12, 2008, pages III H 1 to III H 25 and as identified in Public Document No. 08-0825-25. The entrance sign will be located as identified on sheet C4 (July 1, 2008).

Resolution 08-0531, as amended, was unanimously adopted.

Approved August 25, 2008

DON NESS, Mayor

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Resolution 08-0532 failed unanimously (Public Document No. 08-0825-26).

- - -

RESOLVED, that:

(a) Minnesota Laws, 1973, Chapter 327, requires that, prior to the construction of any building, facility or other use of the Spirit Mountain Recreation Area the Duluth City Council shall, upon recommendation of the city planning commission and the city parks and recreation commission, approve a master plan for the use of property within the Spirit Mountain Recreation Area; and

(b) The city planning commission reviewed the proposed amended Spirit Mountain master plan at their regular meeting of August 12, 2008, and recommended approval of the said plan to city council; and

(c) The parks and recreation commission reviewed the proposed amended Spirit Mountain master plan at their regular meeting of July 9, 2008, and recommended approval of the said plan to city council; and

(d) That the city council of the city of Duluth upon said recommendations and after due review, does approve the Spirit Mountain master plan dated June 24, 2008, for the Spirit Mountain Recreation Area, a copy of which is on file in the office of the city clerk as Public Document No. 08-0825-27 as the master plan for Spirit Mountain Recreation Area and all previous plans are superseded and of no future force and effect.

Resolution 08-0533 was unanimously adopted.

Approved August 25, 2008

DON NESS, Mayor

- - -

Resolution 08-0534, by councilors Fedora, Fosle and Krause, amending comprehensive plan pertaining to certain property on Park Point, reclassifying the use thereof from recreational to traditional neighborhood, was introduced for discussion.

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

Edward Alspach, Janet Green, Danelle Long, David Poulin, Dave Johnson, Cathy Podeszwa and Keith McLaughlin spoke against the sale of the Park Point land for the following reasons: this is a one time solution that will not fix the problem; it is nonreversible; Minnesota Point is a premier site that is used by birders, especially during the Spring and Fall migration; there have been years of trying to protect this original natural forest; there is a perception of the city being insensitive and desperate in trying to solve the budget; parks are infrastructure in Duluth and the city would now be selling infrastructure that makes this city a great place to live and the city has a legacy to protect.

Mayor Ness explained that they would like to take two parcels and split them into four saleable lots. He stated that while he is not in favor of one time revenue going towards ongoing deficits, it is appropriate to apply a one time revenue to the city's undesignated reserve fund which has a very low amount and needs to be built up to maintain the city's bond rating. Mayor Ness stated that they will be applying high development standards that will be sensitive to the unique surroundings of the property which the community will be proud of.

Councilor Gardner stated this resolution would overturn what the council agreed to do at the last meeting which was to give the right of first refusal to the Nature Conservancy or the department of natural resources (DNR) and the city needs to continue on that road.

Ms. Potswald stated that she has received notification from the director of the Minnesota DNR parks and recreation areas that they are not interested in the property.

Councilor Krause stated that this resolution amends the comprehensive plan and if the land is sold, this would not be the first time the comprehensive plan was not followed by the council.

Resolution 08-0534 failed upon the following vote (Public Document No. 08-0825-28):

Yeas: Councilors Fedora, Fosle, Krause and Stauber -- 4

Nays: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

- - -

Resolution 08-0542, by President Reinert, requesting the Arrowhead Agency on Aging to expedite securing a service provider to operate a congregate meal program in Duluth in calendar year 2009 and pledging to keep the current meal locations open, was introduced for discussion.

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

Ken Loeffler-Kemp explained that there has been no discussion between the administration and the union regarding this resolution in the respect that permanent employees are being displaced by contract employees which puts the city in violation of state statute and a 1993 court order enjoining the city from taking such action. He requested that the council refer the resolution back to the administration with the request that the administration meet with the union regarding this proposal and provide assurance that the city will not take action in violation of state statute and court injunction.

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At this time, 11:00 p.m. President Reinert moved to extend the meeting until midnight, which motion was seconded and unanimously carried.

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Mayor Ness explained that it is not the city's money that provides the service, and the city is working with the Arrowhead Agency on Aging to find an agency to provide the service.

Resolution 08-0542 as adopted as follows:

BY PRESIDENT REINERT:

RECITALS:

(a) Congregate dining programs are funded through federal and state dollars which are allocated to the Arrowhead Area Agency on Aging (the agency), part of ARDC. It is the responsibility of the agency to secure a contract with a service provider to operate a congregate meal program in Duluth. In the event of a change in service providers, there are protocols and procedures in place to provide for the transition from one provider to another;

(b) Currently, the agency contracts with the city of Duluth to provide a congregate meal program in Duluth at the following eight locations: Morgan Park Community Recreation Center, City Center West (Evergreen), Lincoln Park Center, Piedmont Community Recreation Center, Rainbow Center, Duluth Heights Holy Cross Church, Portman Community Recreation Center and Woodland Gardens Apartments;

(c) In June of each year, congregate dining program service providers must send an "intent to apply" form to the agency in order to be considered for providing the services for the following year. This year, the city of Duluth sent a letter to the agency informing the agency that the city does not wish to be considered for funding for the congregate meal program in Duluth in calendar year 2009;

(d) Since the city of Duluth will not be entering into a contract with the agency, the agency must secure the services of another service provider to operate congregate meal program in Duluth for calendar year 2009;

(e) The city desires that the agency secure another service provider as soon possible in order to provide a seamless transition in providers that will have the least effect on seniors and to eliminate the perception that the program will not exist in 2009;

(f) The city further desires to make current congregate meal sites in city facilities available for the program.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby request that the agency expedite securing another congregate meal program service provider to alleviate concerns over program loss and eliminate the perception that the program will no longer exist after January 1, 2009.

BE IT FURTHER RESOLVED, that the city pledges its partnership in the program by maintaining current city facilities as open and available for use as congregate meal sites.

Resolution 08-0542 was unanimously adopted.

Approved August 25, 2008

DON NESS, Mayor

- - -

BY PRESIDENT REINERT:

RECITALS:

(a) Budget cuts have forced drastic reductions in youth and adult programming offered at community centers throughout Duluth by the city parks and recreation department;

(b) The city desires programming offered at community centers throughout Duluth to continue;

(c) The mayor has asked citizens and community club groups to partner with the city to offer youth and adult programming targeted for their neighborhoods;

(d) A grant program, which is currently unfunded, has been available to community clubs through the parks and recreation department;

(e) The Duluth City Council desires to fund the existing grant program to assist community clubs that wish to manage community centers and offer youth and adult services.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth is hereby requested to fund the existing parks and recreation small grant program from some portion of city asset sales as they become available.

BE IT FURTHER RESOLVED, that the city council hereby asks that city administration revise the current small grant program guidelines to provide that grants be made to community clubs for programming needs (e.g. hiring summer interns, reimbursing program expenses, purchasing supplies and reimbursing program tuition) and not the purchase of assets, said guidelines to be submitted to the city council for approval.

Resolution 08-0543 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved August 25, 2008

DON NESS, Mayor

- - -

Resolution 08-0535, of intent to sell the "Minnehaha" stained glass window, was introduced by Councilor Anderson for discussion.

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

Diane Daniels, Penny Clark, Joanne Coombe, Bob Berg, Marian Denno, Ken Bloom, Don Dass, Carolyn Sundquist, Jon Niemi and Ken Buehler urged the council not to sell the window for the following reasons: even though the city has had financial problems for a long time, selling the Tiffany window is not a viable option; other assets should be considered before selling the window; shipping the window will decrease its value; the window is one of Duluth's cultural and historical treasures and the city should not sell off its culture; the citizens of Duluth deserve great art; the window was donated to the city as a legacy gift to reflect the Native American heritage of the region; the window was originally designed by a Duluthian and this window is an companion window to the other Tiffany window in the Depot.

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At this time, 12:00 p.m. President Reinert moved to extend the meeting until 12:30 a.m., which motion was seconded and unanimously carried.

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Councilor Gardner urged someone from the community to purchase the window and convey it back to the Depot so that this part of our cultural history will stay in Duluth.

Resolution 08-0535 was adopted as follows:

RESOLVED, that the Duluth City Council does hereby express its intent to sell the city's stained glass window known as the "Minnehaha Window," presently on display at the Depot, to the highest bidder, by a process to be approved by the council in order to assist the city in meeting its fiscal responsibilities.

Resolution 08-0535 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Krause and President Reinert -- 7

Nays: Councilors Gilbert and Stauber -- 2

Approved August 25, 2008

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR STAUBER

08-063 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE. 1959. AS AMENDED, AMENDING PUBLIC DOCUMENT NO. 03-0324-15 ENTITLED "RAMSEY VILLAGE NEIGHBORHOOD DOCUMENTS OF IMPLEMENTATION" (SVCNDA).

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INTRODUCED BY COUNCILOR CUNEO

08-064 - AN ORDINANCE CREATING A STREET LIGHTING SYSTEM UTILITY AND AUTHORIZING CHARGES THEREFOR, ADDING A NEW ARTICLE XII TO CHAPTER 45 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR GARDNER

08-060 - AN ORDINANCE AMENDING SECTIONS 2-2, 2-2.1, 2-2.2, 2-2.4, 2-12 AND 2-17; REPEALING SECTIONS 2-3, 2-4, 2-5, 2-6, 2-7, 2-8, 2-9, 2-10, 2-11, 2-13 AND 2-14; RENUMBERING SECTIONS 2-12, 2-15, 2-16, 2-17, 2-18.1 AND 2-18.2 OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO CITY ADMINISTRATION.

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

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INTRODUCED BY PRESIDENT REINERT

08-061 (9927) - AN ORDINANCE AMENDING SECTION 27 OF THE CITY CHARTER TO REQUIRE BOARD AND COMMISSIONS TO ADOPT BYLAWS REGULATING CONDUCT OF BUSINESS AND PUBLIC PARTICIPATION.

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

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INTRODUCED BY PRESIDENT REINERT

08-062 - AN ORDINANCE AMENDING SECTION 30 OF THE CITY CHARTER TO ALLOW A CITIZEN TO PETITION FOR APPOINTMENT OF A SPECIAL PROSECUTOR TO PROSECUTE CONFLICTS OF INTEREST.

Councilor Gardner questioned the cost to the city if this was passed.

Ordinance 08-062 failed upon the following vote (Public Document No. 08-0825-29):

Yeas: Councilors Gardner and Gilbert -- 2

Nays: Councilors Anderson, Cuneo, Fedora, Fosle, Krause, Stauber and President Reinert -- 7

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RESOLUTION TABLED

At this time, President Reinert moved to remove Resolution 08-0509, submitting a proposed amendment to Section 30 of the City Charter to the voters at a special election on November 4, 2008, from the table, which motion was seconded and unanimously carried.

Resolution 08-0509 was adopted as follows:

RESOLVED, that the city council hereby submits the following proposed amendment to Section 30 of the 1912 Home Rule Charter of the city of Duluth, as amended, to the qualified voters of the city of Duluth at the special municipal election to be held on Tuesday, November 4, 2008, for their ratification or rejection in the manner provided for by law.

RESOLVED FURTHER, that the city clerk shall place upon the ballot at such general election the proposition hereinafter set forth.

To vote for the proposition, completely fill in the oval next to the word "YES" for that question.

To vote against the proposition, completely fill in the oval next to the word "NO" for that question.

PROPOSITION

Should Section 30 of the 1912 Home Rule Charter of the city of Duluth, as amended, be amended to read as follows:

Sec. 30. Conflicts of interest.

(A). No officer or employee of the city shall solicit or receive, any pay, commission, money or thing of value, or derive any benefit, profit or advantage, directly or indirectly, from, or by reason of, any improvement, alteration or repair required by authority of the city, or any contract to which the city shall be a party, except the lawful compensation or salary of such officer or employee. No officer or employee of the city, except as otherwise provided in this Charter, shall solicit, accept or receive, directly or indirectly, from any public service corporation, or the owner of any public utility or franchise, in the city, any pass, frank, free ticket, free service, or any other favor, upon terms more favorable than those granted the public generally;

(B). Violation of the provisions of paragraph (a) by any elected official shall be a misdemeanor. An attempt (as defined in the state statutes) to violate the

provisions of paragraph (a) shall also be a misdemeanor. It shall be the duty of the city attorney to prosecute any violation. If the city attorney is informed of an alleged violation by any citizen, and finds no probable cause to prosecute or otherwise fails to prosecute the same within 30 days, the person alleging the violation may petition the city council for the appointment of a special prosecutor by filing a written request therefore with the clerk, accompanied with full payment of a fee established by the council by resolution. Said fee shall reflect the city's costs of administering the request but not including the costs of any special prosecution. The city council shall, within 60 days of receipt of such written request, vote to approve or disapprove said request and may, by a majority of those voting on the question, petition the chief judge of the district court to appoint a special prosecutor, and the chief judge shall do so within 30 days of the request. If a member of the city council is the alleged violator, that member shall not vote on the question. The special prosecutor shall investigate the matter and, if probable cause is found, shall prosecute it. The defendant shall have a right to trial by jury. The special prosecutor shall be entitled to ordinary and reasonable fees, as determined by the district court, to be paid by the city. The special prosecutor need not be a resident of the city of Duluth;

YES _____ NO _____

A "YES" vote is in favor of adding a process requiring the city council to act on citizen complaints pertaining to alleged conflicts of interest.

A "NO" vote is a vote against adding a process requiring the city council to act on citizen complaints pertaining to alleged conflicts of interest.

Resolution 08-0509 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Krause, Stauber and President Reinert -- 8

Nays: Councilor Gilbert -- 1

Approved August 25, 2008

DON NESS, Mayor

The meeting was adjourned at 12:15 a.m.

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

ORDINANCE NO. 9925

BY COUNCILORS GILBERT AND GARDNER:

AN ORDINANCE AMENDING SECTION 50-55.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO KEEPING CHICKENS IN CITY.

The city of Duluth does ordain:

Section 1. That Section 50-55.1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-55.1. Permitted uses.

A building or premises in the S-2 suburban residential district shall be used only for the following purposes:

- (a) One-family dwelling;
- (b) Agricultural uses primarily for home consumption, such as domestic gardening, berry or bush crops, tree crops, flower gardening, nurseries, orchards, keeping chickens for domestic use and consumption on the premises in compliance with all sections under 6-79 and 6-79.1, aviaries and apiaries, including a greenhouse, but not including a salesroom or roadside stand;
- (c) Publicly owned or operated forest reserve, park, playground or community building, museum, library or art gallery; provided, that any such building shall be located not less than 25 feet from any side lot line;
- (d) Church or other place of worship or Sunday school; provided, that any such building shall be located not less than 25 feet from any side lot line;
- (e) Public school, elementary and high, university, college, parochial school or private school having a curriculum similar to that ordinarily given in public schools; provided, that any such building shall be located not less than 40 feet from any side or rear lot line; and provided further, that there shall be no rooms regularly used for housing or sleeping purposes, except staff quarters when located on the premises for the school;
- (f) Golf club grounds with an area of not less than 30 acres. A miniature course or practice driving tee operated for commercial purposes is not permitted;
- (g) Home occupation;
- (h) Subject to the provisions of Section 50-24, accessory building or use, including a private garage customarily incident to the above uses, but not involving the conduct of a business; provided, that any such accessory building erected prior to the construction of the principal building shall comply with the following conditions:
 - (1) That the construction of the principal building shall be completed and the certificate of occupancy for such principal use issued within two years of issuance of the building permit for the accessory use;
 - (2) That prior to issuance of a building permit for such accessory use, a building demolition bond approved by the city attorney and in an amount sufficient to demolish such accessory structure be filed with the building official;
 - (3) That the owner execute a license, in a form approved by the city attorney, authorizing the city to enter upon the real property for the purpose of demolishing such accessory structure in the event a principal structure is not completed as required by this Section;
- (i) Residential boat dockage under the following conditions:
 - (1) General provisions:
 - (A) Dockage of boats owned and primarily used by a resident of the property in question is a permitted accessory use to the primary residential use and shall not be limited in number;
 - (B) The rental or use of boat dockage spaces on property on which there is a residential structure by owner of boats not residing on the property in question is a permitted accessory use to the primary residential use, but only if such rental or use is limited to two boats, for every residence having frontage

on an improved street;

(C) The boat dockage use of a property that is not residentially developed is permitted as a principal use provided that:

1. The use is limited to one boat for each lot or group of contiguous lots in the same ownership; and

2. The boat is owned and primarily used by the owner of the property;

(2) Off street parking. For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other off street parking spaces required by other legal uses of the property, such spaces to be constructed in accordance with Article III (off street parking and loading requirements) of this Code [Chapter];

(3) Proof of adherence to Code. At the request of the city building inspector or zoning inspector, the owner of property shall promptly provide boat registration or other documentary evidence to prove adherence to this Code;

(4) Commercial use prohibitions. No buildings other than residential or residential accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays, and other commercial uses shall be permitted;

(j) One wind energy conversion system shall be permitted as an accessory use, provided that the tower shall be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower, but in no case shall tower height exceed 130 feet;

(k) Bed and breakfast inn containing no more than 12 habitable units, provided a special use permit is secured according to the procedures set forth in Article IV.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: October 6, 2008)

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

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Stauber and President Reinert -- 6

Nays: Councilors Fedora, Fosle and Krause -- 3

Passed August 25, 2008

Approved August 25, 2008

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

ORDINANCE NO. 9926

BY COUNCILORS GILBERT AND GARDNER:

AN ORDINANCE ADDING SECTIONS 6-79 AND 6-79.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO OBTAINING A LICENSE TO KEEP CHICKENS IN CITY.

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Section 1. That Section 6-79 of the Duluth City Code, 1959, as amended, be added to read as follows:

Sec. 6-79. Obtaining a license to keep chickens.

(a) Any person who keeps chickens in the city of Duluth other than areas zoned S suburban districts under Section 50-51 of this Code, shall obtain an annual license prior to acquiring the chickens. The license year commences on January 1 and ends on the following December 31. Applications shall be made to the city clerk. The city clerk shall collect the license fee;

(b) Fees to be charged for the issuance of a license to keep chickens shall be set in accordance with Section 31-6(a) of this Code;

(c) All licenses shall be conditioned upon passing a mandatory inspection by the animal control authority;

(d) The animal control authority may refuse to grant or may revoke a license if the chickens become a nuisance, as evidenced by a third admitted or judicially-determined violation of the Duluth City Code within 12 months of the first of the three admitted or judicially-determined violations;

(e) The animal control authority may refuse to grant or may revoke a license to a person convicted of cruelty to animals under a code, ordinance or statute from this state, or a code, ordinance or statute from another state;

(f) All reports of such inspections and reviews shall be in writing and maintained by the animal control authority.

Section 2. That Section 6-79.1 of the Duluth City Code, 1959, as amended, be added to read as follows:

Sec. 6-79.1. Keeping of chickens.

(a) Each person holding a license to keep chickens within the city of Duluth shall comply with the following:

(1) The principle use of the property where the chickens are to be kept is a single family dwelling as defined in Section 50-1.18 of Duluth City Code;

(2) No person shall keep more than five chickens;

(3) No person shall keep a rooster;

(4) No person shall keep any chickens inside the single family dwelling;

(5) No person shall slaughter any chickens within the city of Duluth;

(6) Chickens shall be provided a secure and well ventilated roofed structure in compliance with the current zoning and building codes;

(7) The roofed structure shall be fully enclosed, wind proof, have one square foot of window to 15 square feet of floor space and have a heat source to maintain an adequate indoor temperature during extreme cold conditions;

(8) The floors and walls of the roofed structure shall be kept in a clean, sanitary and healthy condition with all dropping and body excretions collected on a daily basis and placed in a fire-proof covered container until applied as fertilizer, composted or transported off the premises;

(9) Chickens shall be kept in the roofed structure or any attached fenced yard enclosure at all times;

(10) The fence around the yard enclosure shall be securely constructed with a mesh type material and shall have protective overhead netting

to keep the chickens separated from other animals;

(11) The fenced yard enclosure shall be well drained so there is no accumulation of moisture;

(12) A floor area or combination of the floor and fenced yard area for keeping chickens shall not be less than ten square feet of floor space per chicken;

(13) No roofed structure or fenced yard enclosure shall be located closer than 25 feet to any residential dwelling on the adjacent lots.

Section 3. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: October 6, 2008)

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

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Stauber and President Reinert -- 6

Nays: Councilors Fedora, Fosle and Krause -- 3

Passed August 25, 2008

Approved August 25, 2008

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9927

AN ORDINANCE AMENDING SECTION 27 OF THE CITY CHARTER TO REQUIRE BOARD AND COMMISSIONS TO ADOPT BYLAWS REGULATING CONDUCT OF BUSINESS AND PUBLIC PARTICIPATION.

The city of Duluth does ordain:

Section 1. That Section 27 of the 1912 Home Rule Charter of the city of Duluth, as amended, is hereby amended to read as follows:

Section 27. The council may provide, by ordinance, for appropriate nonsalaried boards or commissions which it deems desirable to serve in an advisory capacity, or to perform quasi-judicial functions, or to act as a board of appeal in the administration of regulatory ordinances, or to perform such other proper functions as the council may direct. Each such board or commission shall adopt bylaws which govern the conduct of its meetings. In the absence of an applicable bylaw, Roberts Rules of Order shall govern. Each such board or commission shall adopt rules allowing and regulating public participation. Among such boards or commissions the council shall provide for a planning commission, a board handling building code appeals, a board of zoning appeals, an airport board, a library board, a board or commission dealing with alcoholic beverage licensing and a park and recreation commission.

Members of all such boards and commissions, including the civil service board, shall be subject to removal by the mayor, for cause, but only after council approval after notice and an opportunity for a hearing before the council.

The cost of sending notices, preparing and distributing minutes and other similar clerical expense actually incurred by nonsalaried boards and commissions shall be borne by the city from the general fund, together with such extraordinary

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

expense as shall be authorized in advance by council resolution.

Section 2. That this ordinance shall take effect 90 days after its passage and publication.
(Effective date: December 4, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 25, 2008
Approved August 25, 2008
DON NESS, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 8, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0908-01 Clyde Industrial Park, Inc., by Paul Loraas, attorney, petition to vacate easements lying westerly of the westerly line of 29th Avenue West and easterly of the easterly line of 31st Avenue West, in Block 5, Marine Division of Duluth. -- Assessor

08-0908-02 Gordon and Judith Grant, et al. (eight signatures), petition to reclassify from R-2 to C-5 property described as the northerly 127.95 feet of Lot 1 and the northerly 127.95 feet of easterly ten feet of lot 2, Block 005, Central Acres Second Division of Duluth (320 East Myrtle Street). -- Assessor

08-0908-10 Jim Aird communication regarding the proposed ordinance creating a street lighting system utility (08-064-O). -- Received

08-0908-11 Tony Boen communication regarding the proposed ordinance pertaining to graffiti and its removal (08-052-O). -- Received

08-0908-12 The following communications regarding the proposed amendment to the comprehensive plan pertaining to certain property on Park Point (08-0534R): (a) Diane Desotelle and Andrew Streitz; (b) Janet Draper; (c) Kinnan Stauber; (d) Scott Wolff. -- Received

08-0908-13 The following communications regarding the proposed amendment to the comprehensive plan pertaining to certain property on Park Point (08-0534R), and the proposed intent to postpone the sale of the Minnehaha stained glass window (08-0571R): (a) Carla Blumberg; (b) Alison Clarke; (c) Mary Catherine LaFond. -- Received

08-0908-14 The following communications regarding the proposed intent to postpone the sale of the Minnehaha stained glass window (08-0571R): (a) Mary Ann Barnett; (b) Jim Barnstorf; (c) Harley Blake; (d) Penny Clark and Samantha Gibb Roff; (e) Ben Clay; (f) Helen Cochems; (g) Elizabeth Dahl; (h) Martin DeWitt; (i) Craig Fields; (j) Jill Fisher; (k) Kay Gower; (l) Charlene Harms; (m) Tom Hollenhorst; (n) Marji Ingersoll; (o) Stefan Kahlstorf; (p) Dwight Khoury; (q) Karin Kraemer; (r) Susan and Bob Peters; (s) Samantha Gibb Roff; (t) Carolyn D. Sheets; (u) Laura Stone; (v) Tweed Museum Advisory Board; (w) Marlene Wisuri. -- Received

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REPORTS FROM OTHER OFFICERS

08-0908-03 Assessor letter of insufficiency of petition to vacate parts of Oneida Street, 63rd Avenue East, an alley located in Lester Park Fourth Division, Block 64 and Tioga Street.-- Received

08-0908-04 Parks and recreation department director minutes of Lake Superior Zoological Society July 16, 2008, meeting. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

- 08-0908-05 Civil service board minutes of June 3, 2008, meeting. -- Received
- 08-0908-06 Duluth airport authority: (a) Balance sheet for month ending June 30, 2008; (b) Minutes of July 15, 2008, meeting. -- Received
- 08-0908-07 Duluth transit authority: (a) Income statement for April 2008; (b) Minutes of May 28, 2008, meeting. -- Received
- 08-0908-08 Entertainment and convention center authority minutes of August 20, 2008, meeting. -- Received
- 08-0908-09 Library board minutes of June 24, 2008, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Jerry Schlafer commented on his idea of leadership where each adult contributes \$83 to solve the city's budget dilemma, instead of other fees and taxes being imposed. He stated that Duluth citizens are right there when there is a tragedy and when it comes to their own city, they should also come forward.

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RESOLUTION FOR RECONSIDERATION

At this time, Councilor Anderson moved to reconsider Resolution 08-0534, amending comprehensive plan pertaining to certain property on Park Point, reclassifying the use thereof from recreational to traditional neighborhood, which motion was seconded and carried by the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gilbert, Stauber and President Reinert -- 7

Nays: Councilors Gardner and Krause -- 2

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

Dave Johnson noted that his group has made progress to put together a plan that will satisfy the people living on Park Point (Park Pointers), environmentalists and the city. He added that the department of natural resources is still open to considering their ideas.

Councilors Anderson, Cuneo Krause and Fedora supported the resolution for reasons of: there still will be other votes before the land could be sold; this option should be left as a possible solution; this resolution does not cut off the option that this land would be kept in conservation and discussion of land sales have previously been discussed by the council.

Councilor Gardner and President Reinert opposed the resolution for reasons of: the whole area is extremely environmentally sensitive; the comprehensive plan states that this should be only for "recreation"; to consider selling this land is disrespectful to the citizens; this action increases the market value for nonprofits that may be considering purchasing this and this still does not preclude a sale coming forth at a later date.

Resolution 08-0534 was adopted as follows:

BY COUNCILORS CUNEO AND ANDERSON:

WHEREAS, the administration has proposed the sale of certain vacant, substantially unused property located on Park Point for residential development to help the city meet its current financial needs and to restore said property to use and to taxable status; and

WHEREAS, said property is currently classified for "recreational uses" under the city's comprehensive land use plan; and

WHEREAS, in order be able to sell such land for such redevelopment, it must be determined that a classification which will allow such use is, in fact, the appropriate and correct classification therefore consistent with the long term development and use of property in the city; and

WHEREAS, the city planning commission at its meeting of August 12, 2008, reviewed the administration's request to reclassify certain property including the above-referenced property from "recreational" to "traditional neighborhood" and voted to recommend against approving such reclassification; and

WHEREAS, the administration has revised its request for such reclassification to exclude from its proposed reclassification certain sensitive property along the shoreline of the St. Louis River estuary and certain property north of the property proposed for sale, thereby alleviating many concerns related to the proposed reclassification; and

WHEREAS, the city council believes that the approving of the proposed amendment to the comprehensive plan is consistent with the appropriate development and use of the property on Park Point and is in the best interests of the neighborhood and the city as a whole.

RESOLVED, that the Duluth City Council hereby finds that the proposed amendment to the city of Duluth comprehensive plan reclassifying the property described on Public Document No. 08-0908-15, on file in the office of the city clerk, from "recreational" to "traditional neighborhood" is appropriate and consistent with the long-term objectives of the city for the development and use of the property in question and that such reclassification will be in the best interests of other property in the area and of the city as a whole.

RESOLVED FURTHER, that the city of Duluth comprehensive land use plan is hereby amended to reclassify that property described on Public Document No. 08-0908-15 from "recreational" to "traditional neighborhood."

Resolution 08-0534 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gilbert, Stauber and President Reinert -- 7

Nays: Councilors Gardner and Krause -- 2

Approved September 8, 2008

DON NESS, Mayor

- - -

RESOLUTIONS TABLED

Councilor Gardner moved to remove Resolution 08-0506, approving proposed amendment to the pay range for the appointed position of deputy fire chief, from the table, which motion was seconded and unanimously carried.

Councilor Gardner opposed this resolution and Resolution 08-0536 because of her concerns that others who are taking on added responsibilities are not being compensated.

Resolution 08-0506 was adopted as follows:

RESOLVED, that the proposed amendments to the pay range for the appointed position of deputy fire chief are approved; that said position shall remain subject to the city's collective bargaining agreement with the city of Duluth Supervisory Association employees, that the pay range will change from Pay Range 1130 to pay ranges 1130-1135. The proper city officials are

authorized to execute and implement an agreement with the union to provide for a pay range of 1130-1135 for the appointed position of deputy fire chief.

Resolution 08-0506 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: Councilor Gardner -- 1

Approved September 8, 2008

DON NESS, Mayor

- - -

Councilor Gardner moved to remove Resolution 08-0536, approving proposed amendment to the pay range for the civil service classification of fleet manager, from the table, which motion was seconded and unanimously carried.

Resolution 08-0536 was adopted as follows:

RESOLVED, that the amendment to the pay range for the civil service classification of fleet manager is approved; that said classification shall remain subject to the city's collective bargaining agreement with the city of Duluth Supervisory Association employees, that the pay range will change from Pay Range 1115 to pay ranges 1115-1135. The proper city officials are authorized to execute and implement an agreement with the union to provide for a pay range of 1115-1135 for the classified position of fleet manager.

Resolution 08-0536 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: Councilor Gardner -- 1

Approved September 8, 2008

DON NESS, Mayor

- - -

Councilor Stauber moved to remove Resolution 08-0530, denying an amendment to Chapter 50 of the Duluth City Code, 1959, as amended, amending Public Document No. 03-0324-15 entitled "Ramsey Village Neighborhood Documents of Implementation" (SVCNDA), from the table, which motion was seconded and unanimously carried.

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INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR STAUBER

08-063 (9928) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING PUBLIC DOCUMENT NO. 03-0324-15 ENTITLED "RAMSEY VILLAGE NEIGHBORHOOD DOCUMENTS OF IMPLEMENTATION" (SVCNDA).

Councilor Stauber moved to suspend the rules to consider Ordinance 08-063 at this time, which motion was seconded and unanimously carried.

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

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Resolution 08-0530 failed unanimously (Public Document No. 08-0908-16).

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

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 2009 and final city property tax levy for taxes payable in 2009: December 1, 2008, at 7:00 p.m. in the Duluth City Council Chamber.

Resolution 08-0557 was unanimously adopted.

Approved September 8, 2008

DON NESS, Mayor

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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, 2009, subject to departmental approvals and the payment of sales and property taxes:

Timber Lodge Steakhouse Acquisitions, LLC (Timber Lodge Steakhouse, 325 Lake Avenue South, with Bruce Taher, 100 percent owner, transferred from Timber Lodge Steakhouse, Inc. (Timber Lodge Steakhouse), same address.

Resolution 08-0561 was unanimously adopted.

Approved September 8, 2008

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale wine bed and breakfast license for the period ending August 31, 2009, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Timothy A. Edwards (A. Charles Weiss Inn), 1615 East Superior Street.

Resolution 08-0563 was unanimously adopted.

Approved September 8, 2008

DON NESS, Mayor

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BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale 3.2 percent malt liquor licenses and approves issuance of on sale wine licenses for the periods ending April 30, 2009, and August 31, 2009, respectively, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Loy Krathong, Inc. (Sala Thai Restaurant), 4023 Woodland Avenue, with Sumlee Beede, president and 100 percent stockholder.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Siam Tasty, LLC (Bangkok Royal), 2224 Mountain Shadow Drive, with Supanee Stamm, owner.

Resolution 08-0564 was unanimously adopted.
Approved September 8, 2008
DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of 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:

Lake Superior Brewing Company, LLC (Lake Superior Brewing Company), 2711 West Superior Street, for October 4, 2008, with Don Hoag, manager.

Resolution 08-0565 was unanimously adopted.
Approved September 8, 2008
DON NESS, Mayor

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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:

Hippo Down the Street, LLC (Carmody Irish Pub), 308 East Superior Street, for October 11, 2008, from 6:00 p.m. to midnight.

Hospitality Associates of Duluth, LLC (Aces on First), 113 West First Street, for September 20, 2008 (rain date September 26, 2008), from 6:00 p.m. to midnight.

Resolution 08-0566 was unanimously adopted.
Approved September 8, 2008
DON NESS, Mayor

- - -

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, 2009, subject to departmental approvals and the payment of sales and property taxes:

Lake Effect, Inc. (Lake Effect), 394 Lake Avenue South, with Derek Snyder, 100 percent stockholder, transferred from Lake Avenue Café, Inc. (Lake Avenue Café), same address.

Resolution 08-0568 was unanimously adopted.
Approved September 8, 2008
DON NESS, Mayor

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RESOLVED, that the appointment by Mayor Ness to the Duluth airport authority of Roger Wedin, for a term expiring on July 1, 2011, replacing Dave Boe, is confirmed.

Resolution 08-0547 was unanimously adopted.
Approved September 8, 2008
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with RJS Construction Group, LLC, for the reconstruction of Lift Station No. 2 (City Project No. 0085SN), Lift Station No. 29 (City Project No. 0170SN) and Lift Station No. 38 (City Project No. 0086SN) in the amount of \$424,000, distributed as follows: \$129,000 (0085SN), \$183,000 (0170SN) and \$112,000 (0086SN), payable out of Sanitary Sewer Bond Fund 0531, Object 5532.

Resolution 08-0552 was unanimously adopted.
Approved September 8, 2008
DON NESS, Mayor

- - -

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. 08-0908-17 with the Duluth Amateur Hockey Association for the lease and operation of Fryberger Arena.

Resolution 08-0560 was unanimously adopted.
Approved September 8, 2008
DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 08-0556, proposing the sum to be raised by taxation for the special taxing district, Duluth transit authority, for the year 2009, was introduced by Councilor Gilbert for discussion.

Councilor Fedora noted that this authority for the fifth consecutive year is requesting the same amount and not asking to increase their levy to the maximum amount allowed.

Resolution 08-0556 was adopted as follows:

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 2009 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 08-0556 was unanimously adopted.
Approved September 8, 2008
DON NESS, Mayor

- - -

Resolution 08-0554, proposing the sum to be raised by taxation for the special taxing district, housing and redevelopment authority [HRA], for the year 2009, was introduced by Councilor Gilbert for discussion.

Councilor Krause moved to consider Resolution 08-0575, calling for a binding referendum pertaining to the special property tax levy for the HRA for 2009; and Resolution 08-0576, calling for an advisory referendum pertaining to the special property tax levy for the HRA for 2009, at this time, which motion was seconded and unanimously carried.

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

Rick Ball, executive director of the HRA, reviewed the legal requirement associated with this levy review process and stated that state law allows for a rate higher than what the authority is requesting. In addition, he commented at length about the various developments that the authority has been involved with and the critical need for this levy.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Bob Reichert, board member and finance chair of the authority, noted that with the reductions in federal assistance and this levy funding source, the HRA is able to development new revenue producing projects.

Councilor Krause expressed primary support for Resolution 08-0575, and if that did not have majority support, then he supported Resolution 08-0576 for the reasons of: last year the council was prevented from passing the levy amount they wished to; there have been cut backs at every level of government; the citizens should be checked with to see where they stand on this issue; the approval or disapproval of the voters would send a clear message to both the HRA and the council and that the council has the authority, by the Charter, to put this issue to the voters.

Councilors Stauber and Fedora expressed concerns of: their frustration with this issue and how it was handled last year; not supporting this issue going to the voters and that the HRA audit shows a profit at a time when the city is laying off employees.

Assistant City Attorney Robert Asleson reviewed the legal process, the nature of Resolution 08-0575 and Resolution 08-0576 and answered councilor questions.

Resolution 08-0575 failed upon the following vote (Public Document No. 08-0908-19):

Yeas: Councilor Krause -- 1

Nays: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

- - -

Resolution 08-0576 failed upon the following vote (Public Document No. 08-0908-20):

Yeas: Councilors Fosle and Krause -- 2

Nays: Councilors Anderson, Cuneo, Fedora, Gardner, Gilbert, Stauber and President Reinert -- 7

- - -

Councilor Stauber moved to amend Resolution 08-0554 by changing "\$820,700" to "\$614,900," which motion was seconded and failed upon the following vote:

Yeas: Councilors Fedora, Fosle, Krause and Stauber -- 4

Nays: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

Councilor Fedora moved to amend the resolution, by changing "\$820,700" to "\$779,800," which motion was seconded and discussed.

Councilor Krause opposed the amendment for reasons of: Duluth is in a depressed economy; wages are not near that of other locations and costs are increasing higher than any wage increases.

Councilor Fedora's amendment carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Resolution 08-0545, as amended, was adopted as follows:

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 2009 for the housing and redevelopment authority taxing district's operation is hereby determined to be the sum of \$779,800 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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 \$779,800.

Resolution 08-0554, as amended, was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved September 8, 2008

DON NESS, Mayor

- - -

Resolution 08-0555, proposing the sum to be raised by taxation for the special taxing district, Seaway Port authority, for the year 2009, was introduced by Councilor Gilbert for discussion.

Mr. Asleson reviewed the legal aspects of the city council's lack of authority to either approve or disapprove the levy, noting that the statute states that the council "shall" approve it.

Councilors discussed at length: the port authority always levies the maximum allowed by statute; they maintain a high cash balance or equivalent; this increase is not justified; all councilors should abstain from voting on this issue to show their opposition on this levy process; the authority has land at the airport that could be better used by industries than retail operations; this statutory language is taxation without representation; there is no thought to reduce costs; there should be legislative change relative to the council's approval authority and that their views were not a reflection on the work the authority does, but upon the process of the levy.

Resolution 08-0555 failed upon the following vote (Public Document No. 08-0908-18):

Yeas: Councilor Stauber -- 1

Nays: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause and President Reinert -- 7

Abstention: Councilor Fedora -- 1

- - -

Resolution 08-0569, setting a proposed budget for the fiscal year 2009; and Resolution 08-0570, proposing the sum to be raised by taxation for general purposes for the year 2009, were introduced by Councilor Gilbert for discussion.

Councilor Gilbert move to amend the resolutions as follows:

Amendment #1: "That Resolution 08-0569 be amended by increasing Account 100 general fund total by \$109,000, to be allocated to specific accounts by action of the council and that sections 1 and 2 of Resolution 08-0570 be amended by increasing the amount thereof by \$109,000."

Amendment #2: "That Resolution 08-0569 be amended by increasing Account 200 total police and Account 100 general fund total by the amount of \$400,000 as a special levy subject to the approval of the state department of revenue and that sections 1 and 2 of Resolution 08-0570 be amended by increasing the amount thereof by \$400,000."

Amendment #3: "That Resolution 08-0569 be amended by increasing Account 200 total police and Account 100 general fund total by \$85,000 as a special levy subject to the approval of the state department of revenue and that sections 1 and 2 of Resolution 08-0570 be amended by increasing the amount thereof by \$85,000."

Amendment #4: "That Resolution 08-0569 be amended by increasing Account 100 total fire and Account 100 general fund total by \$350,000 as a special levy subject to the approval

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

of the state department of revenue and that sections 1 and 2 of Resolution 08-0570 be amended by increasing the amount thereof by \$350,000," which motions were seconded for discussion.

Councilors commented that: these special levies are a guaranteed tax increase; there have not been special levies before; the legislature put property tax caps on last year, but then allowed for special levies; these are just proposed maximums that can be reduced; all options need to be on the table, so these amendments should be adopted at this time; if there are going to increased expenditures in certain areas, there should be decreased expenditures in other areas and citizens want police, fire and park services.

Councilor Gilbert's Amendment #1 carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

Nays: Councilors Fedora, Fosle, Krause and Stauber -- 4

Councilor Gilbert's Amendment #2 carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

Nays: Councilors Fedora, Fosle, Krause and Stauber -- 4

Councilor Gilbert's Amendment #3 failed upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner and Gilbert -- 4

Nays: Councilors Fedora, Fosle, Krause, Stauber and President Reinert -- 5

Councilor Gilbert's Amendment #4 carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

Nays: Councilors Fedora, Fosle, Krause and Stauber -- 4

Resolution 08-0569, as amended, was adopted as follows:

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, 2009.

GENERAL		
010	Total legislative and executive	2,807,200
015	Total public administration	18,363,900
020	Total planning and development	559,900
100	Total fire	17,438,800
200	Total police	17,844,900
300	Total library	3,909,800
400	Total parks and recreation	2,215,100
500	Total public works	2,067,600
700	Total transfers	17,336,100
100	Total to be allocated to specific accounts by the council	109,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

GENERAL		
100	General fund total	82,652,300

Resolution 08-0569, as amended, was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert and President Reinert -- 6

Nays: Councilors Fedora, Krause and Stauber -- 3

Approved September 8, 2008

DON NESS, Mayor

- - -

Resolution 08-0570, as amended, as adopted as follows:

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 2009 for general operations is hereby determined to be the sum of \$15,437,800 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 \$8,820,500.

Section 3. For the payment of debt, there will be levied for the general obligation debt fund the sum of \$5,682,300.

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 \$422,100.

Section 5. There will be levied for other post employment benefits - retiree insurance, the sum of \$512,900.

Resolution 08-0570, as amended, was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert and President Reinert -- 6

Nays: Councilors Fedora, Krause and Stauber -- 3

Approved September 8, 2008

DON NESS, Mayor

- - -

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 27, 2008, with Darlene Marshall, manager (rain date September 28, 2008).

Resolution 08-0562 was unanimously adopted.

Approved September 8, 2008

DON NESS, Mayor

- - -

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. 08-0908-22, with Senior Service America, Inc., (SSAI) to serve Duluth residents age 55 and older with work experience training and services in the amount of \$311,414 for the period of July 1, 2008, to June 30, 2009; program funds will be accepted upon receipt of notices of funds available. Monies received shall be deposited in Fund 270, Agency 031, Organization 6330.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

FURTHER RESOLVED, that at the time the city implements its system by which each city program is charged an amount to fund retiree health insurance, which amount is transferred to a fund or trust, the programs funded by this contract will be charged at the same rate and the funds will be transferred and used in the same manner.

Resolution 08-0548 was unanimously adopted.

Approved September 8, 2008

DON NESS, Mayor

- - -

Resolution 08-0521, by President Reinert, amending Resolution 07-0723 adopting license, permit and fee charges for 2008; setting additional fees for use of Bayfront Festival Park, was introduced for discussion.

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

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RESOLVED, that pursuant to Minnesota Statute Section 161.36, the commissioner of transportation be appointed as agent to the city of Duluth to accept, as its agent, federal aid funds which may be made available for eligible transportation-related projects.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute an agreement, on file in the office of the city clerk as Public Document No. 08-0908-21, with the commissioner of transportation, prescribing the terms and conditions of said federal aid participation as set forth and contained in Minnesota Department of Transportation Agency Agreement No. 93269.

Resolution 08-0540 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved September 8, 2008

DON NESS, Mayor

- - -

BY COUNCILOR FOSLE:

RESOLVED, that the Duluth City Council does hereby request that the administration direct appropriate city staff to research all city-owned parcels and work with the St. Louis County land department to identify tax forfeited parcels located in Duluth for potential sale and future development with a view toward enhancement of the tax base.

FURTHER RESOLVED, that in the event the sale of any such parcels requires the amendment of the comprehensive plan, that the council be presented separate resolutions providing for the alienation or sale of each such parcel.

Resolution 08-0550 was unanimously adopted.

Approved September 8, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Kalkbrenner Plumbing and Heating, Inc., for rehabilitation of private sewer services for the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

engineering division for the apparent low bid of \$148,800, payable out of the Sanitary Sewer Fund 0530, Department/Agency 500, Organization 1970, Object 5535, City Project No. 0729SN.

Resolution 08-0551 was unanimously adopted.

Approved September 8, 2008

DON NESS, Mayor

- - -

Resolution 08-0571, by Councilor Fosle, of intent to postpone sale of the Minnehaha stained glass window, was introduced for discussion.

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

Jon Niemi, Penny Clark, chair of the heritage preservation commission, MJ Owens, Sandy Owen, Ken Buehler, executive director of the Depot, Joan Coombe, executive director of the St. Louis County historical society, Mary Evans, Carolyn Sundquist, member of the Daughters of the American Revolution, Daniel Hartman, Penny Perry, Ken Bloom and Ron Bongey had the following comments: this is a cultural property not an asset, that is not costing the city anything, that increases in value, and should not be sold; this city is filled with a rich cultural heritage that attracts many; this should not be looked at as a budget balancing means; if you had to sell it, a buyer should be someone that will keep it in Minnesota; this is an irreplaceable part of Duluth heritage; this should not be looked at as a solution to a long term problem; this is like considering selling the Statute of Liberty; a time extension should be supported because there has been great interest to find a solution that meets all parties needs; this is a 115 year old art treasure that was donated to the citizens for their enjoyment; it was never intended by the donors of this gift, that it would be sold by the city; we should admit that it is wrong to do this, because we are not looking at the historical context; it is very hard to balance the bottom line with a work of art; the UMD Tweed Museum Advisory Board formally supports the position that the city of Duluth does not sell the Tiffany windows and consideration should be given to selling the windows to UMD, so that they can be preserved at the Tweed Museum and a photograph by David Berry, of Superior, Wisconsin, was likely used by Ann Weston, one of creators of the Tiffany window, thus reflecting the direct history of this window to the local area (Public Document No. 08-0908-23).

Chief Administrative Officer Lisa Potswald requested that the resolution be amended by changing the date of "November 21, 2008" to "October 13, 2008," to allow the best possible opportunity for the window, should it end up being sold.

Councilor Fosle moved to changing the date of "November 21, 2008" to "October 13, 2008," which motion was seconded and unanimously carried.

Councilor Stauber requested the council to reconsider the intent to sell the windows.

Resolution 08-0571, as amended, was adopted as follows:

BY COUNCILOR FOSLE:

WHEREAS, the Minnehaha Tiffany window has been a significant part of Duluth's cultural heritage for 115 years; and

WHEREAS, the window was donated to the Duluth Public Library for the citizens of Duluth to have and enjoy; and

WHEREAS, the donation was funded by pennies donated by Duluth school children and other funds raised by the St. Louis County Women's Auxiliary; and

WHEREAS, the handling of disposition of the window is a matter of public trust.

THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby declares its intention to postpone approval of the sale of the Minnehaha Tiffany window until at least October 13, 2008, in order to allow full exploration of potential local options to retain the window in Duluth.

Resolution 08-0571, as amended, was unanimously adopted.

Approved September 8, 2008

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCE TABLED

INTRODUCED BY COUNCILOR GARDNER

08-060 - AN ORDINANCE AMENDING SECTIONS 2-2, 2-2.1, 2-2.2, 2-2.4, 2-12 AND 2-17; REPEALING SECTIONS 2-3, 2-4, 2-5, 2-6, 2-7, 2-8, 2-9, 2-10, 2-11, 2-13 AND 2-14; RENUMBERING SECTIONS 2-12, 2-15, 2-16, 2-17, 2-18.1 and 2-18.2 OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO CITY ADMINISTRATION.

Councilor Gardner 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.

Eric Simonson, representing the Duluth Fire Fighters Union, expressed concerns that: the ordinance would eliminate the requirement of a separate and dedicated fire department and replaces it with a provision that would distribute its responsibilities among departments; the fire department is not against changes for the greater good, if it does not reduce quality services; this action gives a preconceived notion that a public safety department would be created before the review committee makes its recommendations and that he could not support the letter of intent (Public Document No. 08-0908-24) as it currently is written, needing the reference to National Firefighters Professional Association (NFPA) 1710 standards.

Ms. Potswald stated that the intention of executing the letter of intent was to clarify what the committee would work on and if the letter of intent was agreed to, then the administration would propose an amendment to this ordinance. She stated that the guidelines of the NFPA 1710 has extremely high standards that very few cities in the United States can adhere to. She further noted that this city's organizational structure has not been changed for over 50 years and this provides for a new way of working for the citizens.

Councilor Krause moved to amend Section 2-2.1(a)(2) of the ordinance by adding the wording "or an advanced degree" after the phrase "a four-year degree," which motion was seconded and carried unanimously.

President Reinert moved to retable the amended ordinance, for details and understandings to be worked on, which motion was seconded and carried as follows:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Krause, Stauber and President Reinert -- 7

Nays: Councilors Fedora and Fosle -- 2

- - -

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR FOSLE

08-066 - AN ORDINANCE CLARIFYING SANITARY SEWER INFLOW AND INFILTRATION REGULATION AND PROVIDING FOR POINT OF SALE INSPECTIONS, AMENDING CHAPTER 43 OF THE CODE.

- - -

INTRODUCED BY COUNCILOR CUNEO

08-067 - AN ORDINANCE REPEALING ARTICLE V, CHAPTER 6, AND AMENDING SECTIONS 6-3, 6-4, 6-12, 6-27, 6-39, 6-82, 6-84, 6-85, 6-86, 6-87 AND 6-96 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE ANIMAL HUMANE BOARD.

- - -

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR CUNEO

08-064 - AN ORDINANCE CREATING A STREET LIGHTING SYSTEM UTILITY AND AUTHORIZING CHARGES THEREFOR, ADDING A NEW ARTICLE XII TO CHAPTER 45 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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The meeting was adjourned at 9:50 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9928

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959 AS AMENDED, AMENDING PUBLIC DOCUMENT NO. 03-0324-15 ENTITLED "RAMSEY VILLAGE NEIGHBORHOOD DOCUMENTS OF IMPLEMENTATION" (SVCNDA).

The city of Duluth does ordain:

Section 1. That development within the boundaries of traditional neighborhood district number one 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. 9635, Ordinance No. 9753 and Ordinance No. 9911, be further amended to allow a change in Public Document No. 03-0324-15 to allow Type VIII structures (mixed use building residential with commercial space) on Lots 12 and 13, Block 190, West Duluth Seventh Division (FN 08085).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Section 2. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: October 19, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed September 8, 2008
Approved September 8, 2008
DON NESS, Mayor

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, September 18, 2008, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fosle, Gilbert, Krause, Stauber and President Reinert -- 7

Absent: Councilors Fedora and Gardner -- 2

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MOTIONS AND RESOLUTIONS

BY PRESIDENT REINERT:

RESOLVED, that Resolution 08-0509 is hereby amended by deleting the proposition and explanation approved thereunder and by substituting the following proposition and explanation therefor:

PROPOSITION

Should Section 30 of the 1912 Home Rule Charter of the city of Duluth, as amended, be amended to allow a citizen to request that the Council appoint special prosecutor to prosecute violations of the Charter's Conflict of Interest provisions when the City Attorney has determined that there is no probable cause to do so and to require that the Council to decide whether or not to do so within 60 days of receipt of such request?

YES _____

NO _____

A "YES" vote is in favor of adding a process requiring the City Council to act on citizen complaints pertaining to alleged conflicts of interest.

A "NO" vote is a vote against adding a process requiring the City Council to act on citizen complaints pertaining to alleged conflicts of interest.

Resolution 08-0589 was unanimously adopted.

Approved September 18, 2008

DON NESS, Mayor

- - -

The meeting was adjourned at 5:03 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 22, 2008, 7:19 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gilbert, Krause, Stauber and President Reinert -- 8

Absent: Councilor Gardner -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-0922-08 Jerome R. Carlson communication regarding the proposed creation of a street lighting system utility (08-064-O). -- Received

08-0922-10 Dave Fredrickson communication regarding the proposed ordinance defining residential parking areas (08-071-O). -- Received

08-0922-09 John Hoyt communication regarding the proposed creation of a crime free housing program (08-079-O). -- Received

- - -

REPORTS FROM THE ADMINISTRATION

Mayor Ness gave an update on the status of the 2008 budget and itemized several budget strategies that have been delayed or have had problems with implementation resulting in a lessened impact on the budget that was hoped for. He continued by saying that the council will need to follow up with some key components such as the sale of assets to help address the budget deficits with the remainder going to restore budget reserves.

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REPORTS FROM OTHER OFFICERS

08-0922-01 Assessor letters of sufficiency of petitions to:

(a) Reclassify from R-2 to C-5 property described as the northerly 127.95 feet of Lot 1 and the northerly 127.95 feet of easterly ten feet of Lot 2, Block 5, Central Acres Second Division of Duluth (320 East Myrtle Street);

(b) Vacate easements lying westerly of the westerly line of 29th Avenue West and easterly of the easterly line of 31st Avenue West, in Block 5, Marine Division of Duluth. -- Received

08-0922-02 Clerk application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from March of Dimes Foundation on October 23, 2008. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

08-0922-03 American Indian commission minutes of July 21, 2008, meeting. -- Received

08-0922-04 Entertainment and convention center authority minutes of September 10, 2008, building committee meeting. -- Received

08-0922-05 Planning commission minutes of August 12, 2008, meeting. -- Received

08-0922-06 Spirit Mountain recreation area authority minutes of: (a) June 11; (b) June 30, 2008, meetings. -- Received

08-0922-07 Tree commission minutes of: (a) May 20; (b) June 16; (c) July 15; (d) August 19, 2008, meetings. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Lorelei Louks urged the council to pass an ordinance that would fine people who are disturbing the peace and that they would need to go to citizenship classes to learn how they are affecting the neighborhood they are living in.

- - -

Edward Alspach stated that city business has gone back to normal even with all the turmoil for Duluth in trying to balance the budget as the council agenda tonight will be committing the city to \$9 million.

- - -

RESOLUTION TABLED

President Reinert moved to remove Resolution 08-0521, amending Resolution 07-0723 adopting license, permit and fee charges for 2008; setting additional fees for use of Bayfront Festival Park, from the table, which motion was seconded and unanimously carried.

Resolution 08-0521 was adopted as follows:

BY PRESIDENT REINERT:

RESOLVED, that pursuant to Duluth City Code Section 35-9.1, Resolution 07-0723 adopting license, permit and fee charges for 2008 be amended to add the following fees:

Parks and Recreation	
License, permit, fee name	2008 Fee
Bayfront Festival Park	
Use of entire park	
Usage fee, per day (advance payment required)	\$1,000.00
*11:00 p.m. termination time additional fee	\$200.00
*11:59 p.m. termination time additional fee	\$400.00
* New license, permit or fee	

Resolution 08-0521 was unanimously adopted.

Approved September 22, 2008

DON NESS, 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 Reinert moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the proper city officials are authorized to pay for membership dues for the year commencing on September 1, 2008, to the League of Minnesota Cities in the amount of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

\$28,289; payable from Fund 100, Agency 700, Organization 1401, Object 5433.

Resolution 08-0578 was unanimously adopted.

Approved September 22, 2008

DON NESS, Mayor

- - -

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 two groomer tractors.

RESOLVED, that the city council hereby approves the authority entering into a lease purchase agreement with Beacon Bank in the approximate amount of \$435,968 for the purpose of purchasing two groomer tractors.

Resolution 08-0587 was unanimously adopted.

Approved September 22, 2008

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth hereby accepts the transfer and conveyance by quit claim deed from the Duluth economic development authority (DEDA) of all of DEDA's interests in the following-described property in St. Louis County, Minnesota:

All of Block 26, PORTLAND DIVISION, according to the recorded plat thereof.

Resolution 08-0594 was unanimously adopted.

Approved September 22, 2008

DON NESS, Mayor

- - -

BY COUNCILORS GILBERT AND FEDORA:

RESOLVED, that pursuant to Section 26 of the City Charter, the proper city officials are authorized to enter into a professional services agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-0922-11, with Briol & Associates, PLLC, for legal services involving the city's claims against Merrill, Lynch, Pierce, Fenner & Smith, Inc., arising out of the purchase of \$3 million of Mainsail II, LLC, commercial paper, said agreement to be in an amount not to exceed \$75,000 payable from Fund 100-700-1407-5304.

Resolution 08-0596 was unanimously adopted.

Approved September 22, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of regulator mechanic, which were approved by the civil service board on August 5, 2008, and which are filed with the city clerk as Public Document No. 08-0922-12, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic

employees and compensated at Pay Range 29.

Resolution 08-0553 was unanimously adopted.

Approved September 22, 2008

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the alcohol, gambling and tobacco commission of James Wright for a term expiring on March 20, 2011, replacing Matthew L. Munger who resigned, is confirmed.

Resolution 08-0581 was unanimously adopted.

Approved September 22, 2008

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the American Indian commission of Renee K. Van Nett for a term expiring on May 12, 2011, replacing John Day, is confirmed.

Resolution 08-0582 was unanimously adopted.

Approved September 22, 2008

DON NESS, Mayor

- - -

RESOLVED, that the reappointment by Mayor Ness to the library board of Elizabeth Benson Johnson for a term expiring on June 1, 2013, is confirmed.

RESOLVED FURTHER, that the appointments by Mayor Ness to the library board of Jane Brissett for a term expiring on June 1, 2013, replacing Mary E. Lynch, and Peter Spooner for a term expiring on June 1, 2010, replacing Mary Anne Korsch who resigned, are confirmed.

Resolution 08-0583 was unanimously adopted.

Approved September 22, 2008

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the Duluth transit authority of Yvonne Harvey (Council District 5 representative) for a term expiring on June 30, 2011, replacing Tari Rayala, is confirmed.

Resolution 08-0586 was unanimously adopted.

Approved September 22, 2008

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the parks and recreation commission of Eric S. Viken (Planning District 8 representative) for a term expiring on February 13, 2009, replacing David L. Helf who resigned, is confirmed.

Resolution 08-0590 was unanimously adopted.

Approved September 22, 2008

DON NESS, Mayor

- - -

The city council finds as follows:

(a) A sufficient petition was filed with the city clerk requesting the vacation of a certain alley right-of-way, located east of Basswood Avenue on the south side of Mulberry Street. This right-of-way is requested to be vacated by the applicant as follows: the northerly 125 feet of full

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

alley right-of-way running north and south between Mulberry Street and Locust Street, in Block 19, Duluth Heights Sixth Division; and

(b) 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 during a public hearing; and

(c) The planning commission, at its September 9, 2008, regular meeting unanimously recommended that the requested vacation be approved; and

(d) There will be no continuing public need for this right-of-way requested to be vacated.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to vacate this alley public right-of-way, legally described as follows: northerly 125 feet of full alley right-of-way running north and south between Mulberry Street and Locust Street, in Block 19, Duluth Heights Sixth Division.

Resolution 08-0592 was unanimously adopted.

Approved September 22, 2008

DON NESS, Mayor

- - -

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
010-1310-02125 Duluth Proper Third Division, Bl 75, Lot 90, Ex W 6 FT OF S 50 FT OF W 1/2	south of Skyline Parkway between Fifth Avenue West and Sixth Avenue West	Skyline Parkway viewshed and future trail area preservation
010-1350-07660 Duluth Proper Third Division, Bl 123, Lot 98, S 35 FT OF N 70 FT	southeast corner of Sixth Avenue East and Tenth Street	future Kenwood connector route
010-3160-00370 Manufacturers Division of New Duluth, Lot 1, Bl H, Inc. Riparian Rights	eastern end of New Duluth between approximately 95th and 94th avenues West along St. Louis River	floodway/watershed/setland area, very limited development possibilities
010-3160-00380 Manufacturers Division of New Duluth, Lot 3, Bl H, Inc. Riparian Rights	eastern end of New Duluth between approximately 95th and 94th avenues West along St. Louis River	floodway/watershed/setland area, very limited development possibilities

Resolution 08-0593 was unanimously adopted.

Approved September 22, 2008

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

BY COUNCILOR STAUBER:

RESOLVED, that pursuant to Duluth City Code Section 35-9.1, Resolution 07-0723 adopting license, permit and fee charges for 2008 as the same pertain to "Bayfront Festival Park, use of entire park," as amended by Resolution 08-0521, be further amended to read as follows:

Parks and Recreation	
License, permit, fee name	2008 Fee
Bayfront Festival Park	
Use of entire park (advance payment required)	
*Private party, unincorporated permittee	\$250.00
*Charitable, nonprofit permittee	
**Not selling tickets	
Annual net revenues of less than \$1 million	\$500.00
Annual net revenues of \$1 million or more	\$1,000.00
Selling tickets	\$500.00 + \$.50/ ticket over 1,000 tickets sold
*For profit permittee selling tickets	\$1,000.00 + \$.50/ ticket over 1,000 tickets sold
*Pursuant to contract approved by council	As established by contract
*Additional facilities use	
Stage rental fee, per day	\$400.00
Perimeter fence fee, per event	\$400.00
* New license, permit or fee	
** As determined by www.guidestar.org	

Resolution 08-0597 was unanimously adopted.
 Approved September 22, 2008
 DON NESS, Mayor

- - -

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. 08-0922-13, with Job Service for the provision of dislocated worker services pursuant to the Workforce Investment Act and Minnesota Statutes, Chapter 268, at costs not to exceed \$100,659 for the federal program (for the period July 1, 2008 - June 30, 2009), and \$166,403 for state program (for the period July 1, 2008 - June 30, 2009). Funds will be payable from Fund 268, Agency 031, organizations 6211 (federal program) and 6210 (state program).

Resolution 08-0573 was unanimously adopted.
 Approved September 22, 2008
 DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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. 08-0922-14, with Duluth airport authority pertaining to the paving of the Airport Perimeter Road in the amount of \$174,478, to be deposited in the Permanent Improvement Fund 411, Project 0677TR.

FURTHER RESOLVED, that the proper city officials are authorized to accept a grant of SAFETEA-LU funds from the state of Minnesota department of transportation in the amount of \$634,466, to be deposited in the Permanent Improvement Fund 411, Project 0677TR, for use in conjunction with the same project.

Resolution 08-0559 was unanimously adopted.

Approved September 22, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Ulland Brothers, Inc., for construction of West First Street Alley gas main replacement from Second Avenue West to Third Avenue West in the amount of \$75,825.50, payable out of Gas Utility Fund 0520, Department/Agency 500, Organization 1905, Object 5533, City Project No. 0731GS.

Resolution 08-0591 was unanimously adopted.

Approved September 22, 2008

DON NESS, Mayor

- - -

The following resolutions were also considered:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC, for construction of Perimeter Road paving, Phase 2, for the engineering division for the apparent low bid of \$793,081.42, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Object 5530, City Project No. 0677TR.

Resolution 08-0577 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gilbert, Krause, Stauber and President Reinert -- 7

Nays: None -- 0

Abstention: Councilor Fedora -- 1

Absent: Councilor Gardner -- 1

Approved September 22, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Morton International, Inc., Morton Salt Division, for the purchase and delivery of an estimated 15,000 tons of road salt for the 2008 - 2009 year in accordance with specifications and its bid of \$52.39 per ton for \$785,850 plus sales tax of \$51,080.25 for a total amount of \$836,930.25, terms net 30, FOB destination, payable as follows from the General Fund 100, Agency 500, Organization 1920-2550, and Object 5223:

(a) \$334,772.10, 6,000 tons, for budget year 2008 (October - December 2008);

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

(b) \$502,158.15, 9,000 tons, for budget year 2009 (January - April 2009).

Resolution 08-0579 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gilbert, Krause, Stauber and President Reinert -- 7

Nays: None -- 0

Abstention: Councilor Fedora -- 1

Absent: Councilor Gardner -- 1

Approved September 22, 2008

DON NESS, Mayor

- - -

Resolution 08-0588, authorizing city officials to contract with Polyphase Electric Company, dba Mesaba Electrical Group, for the purchase and installation of a citywide early warning system in the amount of \$494,586, was introduced by Councilor Cuneo for discussion.

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

Thomas and Adam Green stated that they were awarded the bid and were present to answer any questions the council might have on the system and are anxious to start working on the new system right away.

Resolution 08-0588 was adopted as follows:

RESOLVED, that city officials are hereby authorized to contract with Polyphase Electric Company, dba Mesaba Electrical Group, for the purchase, delivery and installation of a city-wide early warning siren system in the accordance with city specifications and the vendor's low bid of \$464,400, plus \$30,186 sales tax for a total amount of \$494,586, net 30, payable as follows:

(a) \$370,939.50 from Special Projects Fund 210, Agency 030, Organization 3163, Object 5580 (75 percent);

(b) \$123,646.50 from Capital Improvements Fund 450, Agency 030, Object 5580, Project CP2007-OT0704 (25 percent).

Resolution 08-0588 was unanimously adopted.

Approved September 22, 2008

DON NESS, Mayor

- - -

Resolution 08-0584, confirming the reappointment of Nancy Norr to the Duluth airport authority, was introduced by President Reinert for discussion.

Councilor Krause reviewed that this person has already served two terms on the authority and should be replaced to give more individuals a chance to serve.

Resolution 08-0584 was adopted as follows:

RESOLVED, that the reappointment by Mayor Ness to the Duluth airport authority of Nancy Norr for a term expiring on July 1, 2011, is confirmed.

Resolution 08-0584 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gilbert, Stauber and President Reinert -- 7

Nays: Councilor Krause -- 1

Absent: Councilor Gardner -- 1

Approved September 22, 2008

DON NESS, Mayor

- - -

Resolution 08-0585, confirming the reappointment of John Hinzmann, Jr., and the appointment of Ryan E. Mears, replacing John Morrison, to the board of zoning appeals, was introduced by President Reinert for discussion.

Councilor Krause stated that this applicant is already serving on a city board and should not be appointed to another board in order to give more citizens a chance to serve.

Resolution 08-0585 was adopted as follows:

RESOLVED, that the reappointment by Mayor Ness to the board of zoning appeals of John Hinzmann, Jr., for a term expiring on July 31, 2012, is confirmed.

RESOLVED FURTHER, that the appointment by Mayor Ness to the board of zoning appeals of Ryan E. Mears for a term expiring on July 31, 2012, replacing John Morrison, is confirmed.

Resolution 08-0585 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gilbert, Stauber and President Reinert -- 7

Nays: Councilor Krause -- 1

Absent: Councilor Gardner -- 1

Approved September 22, 2008

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR GILBERT

08-075 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL GAS UTILITY IN AN AMOUNT NOT TO EXCEED \$750,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

INTRODUCED BY COUNCILOR GILBERT

08-077 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL WATER UTILITY IN AN AMOUNT NOT TO EXCEED \$3,350,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

INTRODUCED BY COUNCILOR GILBERT

08-078 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY IN AN AMOUNT NOT TO EXCEED \$2,900,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

Councilor Fedora expressed concern that the city should not be assuming new debt with three new bond issues with the turmoil in the nation's economy now.

- - -

BY COUNCILOR KRAUSE

08-079 - AN ORDINANCE AMENDING CHAPTER 29A OF THE DULUTH CITY CODE, 1959, AS AMENDED BY ADDING A NEW ARTICLE IV.

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

Jason Nowacki, representing the Arrowhead Multi-Housing Association, explained that they have met with the police department and support the concept, but have concerns over the vagueness of the language which leaves room for interpretation and could lead to inconsistencies in enforcement. He requested that the language be reviewed and changed prior to the council voting on it so it could be right from the beginning.

- - -

INTRODUCED BY COUNCILOR GARDNER

08-072 - AN ORDINANCE REPEALING ARTICLE XXI OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE EQUAL OPPORTUNITY ADVISORY COMMISSION.

- - -

INTRODUCED BY COUNCILOR GARDNER

08-082 - AN ORDINANCE AMENDING CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED; ADDING A NEW SECTION 2-68 PROVIDING FOR THE EXPIRATION DATE FOR THE TERMS OF THE MEMBERS OF THE VARIOUS BOARDS AND COMMISSIONS

- - -

INTRODUCED BY COUNCILOR STAUBER

08-068 - AN ORDINANCE AMENDING SECTIONS 2-154 AND 2-157 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PROVIDING FOR THE NATURAL AREA PROGRAM GUIDELINE DEVELOPMENT PROCESS AND IDENTIFYING THE PROGRAM ADMINISTRATOR.

- - -

INTRODUCED BY COUNCILOR STAUBER

08-069 - AN ORDINANCE REPEALING ARTICLE XXX OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE COMMISSION ON HIGHER EDUCATION.

- - -

INTRODUCED BY COUNCILOR STAUBER

08-070 - AN ORDINANCE REPEALING ARTICLE XXVII OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE DULUTH HOUSING COMMISSION.

- - -

INTRODUCED BY COUNCILOR STAUBER

08-071 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW SECTION 50-1.50.1 DEFINING THE RESIDENTIAL PARKING AREA, AMENDING SECTION 50-30 TO ESTABLISH THE AUTHORIZED PARKING AREAS ON A RESIDENTIAL LOT AND CREATING A VARIANCE FROM SUCH REGULATION.

- - -

INTRODUCED BY COUNCILOR STAUBER

08-074 - AN ORDINANCE AMENDING SECTION 2-41 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PROVIDING FOR ADDITIONAL POWERS AND DUTIES OF THE PLANNING COMMISSION.

- - -

INTRODUCED BY COUNCILOR STAUBER

08-080 - AN ORDINANCE AUTHORIZING RECONVEYANCE OF PROPERTY AT BASE OF SPIRIT MOUNTAIN ABOVE GRAND AVENUE BETWEEN 86TH AND 87TH AVENUES WEST TO STATE OF MINNESOTA (S.V. BAYHILL).

Councilor Stauber moved to remove the ordinance from the agenda and return it back to administration per their request, which motion was seconded and unanimously carried.

- - -

INTRODUCED BY COUNCILOR FOSLE

08-076 - AN ORDINANCE PROVIDING FOR HEARING OF WATER OR GAS SERVICE DISPUTES BY THE CHIEF ADMINISTRATIVE OFFICER AND ELIMINATING THE WATER AND GAS SERVICE HEARING BOARD, AMENDING SECTION 48-15.3 AND ARTICLE XV OF CHAPTER 48 OF THE CODE.

- - -

BY COUNCILOR ANDERSON

08-081 - AN ORDINANCE REGULATING GRAFFITI; AMENDING CHAPTER 34 OF THE DULUTH CITY CODE, 1959, AS AMENDED, BY ADDING A NEW SECTION 34-41.

- - -

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR FOSLE

08-066 - AN ORDINANCE CLARIFYING SANITARY SEWER INFLOW AND INFILTRATION REGULATION AND PROVIDING FOR POINT OF SALE INSPECTIONS, AMENDING CHAPTER 43 OF THE CODE.

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

- - -

The meeting was adjourned at 7:40 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 13, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on June 19, July 21 and 24, 2008, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-1013-15 William Bronn communication regarding sale of certain Park Point property to cover the 2008 operating deficit (08-0630R). -- Received

08-1013-16 Karin Kraemer communication regarding proposed intent to sell the Minnehaha stained glass window (08-0629R). -- Received

08-1013-17 Sandy Robinson communication regarding creation of a crime free housing program (08-079-O). -- Received

08-1013-18 The following communications regarding creation of a street lighting system utility (08-0572R and 08-064-O): (a) Jerome Carlson; (b) Neil Ladsten; (c) Mary Scott; (d) Rondi Watson. -- Received

08-1013-19 The following communications regarding the proposed ordinance defining residential parking areas (08-071-O): (a) Ellen Dunlap; (b) Sandy Robinson. -- Received

08-1013-01 The following communications regarding the proposed ordinance pertaining to the rental licensing 300 foot rule (08-085-O): (a) Gerald Cleveland; (b) Dave and Ann Flemming; (c) Mary Gallegos; (d) Jim Gearn; (e) Mike and Shirleen Hieb; (f) Ferdinand Peters; (g) Larry and Jean Turbes; (h) Suzanne Wagness; (i) Lowell and Naomi Weberg; (j) Trent Wickman. -- Received

08-1013-02 Mary Vanderwerp communication regarding the proposed ordinances authorizing issuance, sale and delivery of general obligation revenue bonds to fund various city projects (08-075-O, 08-077-O, 08-078-O). -- Received

- - -

REPORTS FROM OTHER OFFICERS

08-1013-03 Assessor:

(a) Assessment roll for confirmation of delinquent stormwater utility fees during the period of January 1, 2007, and December 31, 2007;

(b) Letter of sufficiency of petition to vacate a portion of alley, Tioga and Oneida streets and 63rd Avenue East, Blocks 57 and 64, Lester Park Fourth Division. -- Received

08-1013-04 Clerk applications to the Minnesota gambling control board for exemption from lawful gambling license (raffles) from: (a) The Amyotrophic Lateral Sclerosis Association, Minnesota Chapter, on February 7, 2009; (b) Lake Superior Chapter 33, Muskies, Inc., on February 21, 2009. --Received

08-1013-05 Parks and recreation department director minutes of Lake Superior Zoological Society August 20, 2008, meeting. -- Received

08-1013-06 Purchasing agent emergency order awarded to Stout Mechanical for repair of the steam vault located at Lake Avenue and First Street for \$31,500. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

08-1013-07 Alcohol, gambling and tobacco commission minutes of: (a) August 6; (b) September 3, 2008, meetings. -- Received

08-1013-08 Duluth airport authority balance sheet of July 31, 2008. -- Received

08-1013-09 Duluth/North Shore Sanitary District minutes of August 13, 2008, meeting. -- Received

08-1013-10 Duluth transit authority: (a) Income statement for May, 2008; (b) Minutes of June 25, 2008, meeting. -- Received

08-1013-11 Entertainment and convention center authority minutes of September 25, 2008, meeting. -- Received

08-1013-12 Housing and redevelopment authority minutes of: (a) May 27; (b) June 24, 2008, meetings. -- Received

08-1013-13 Library board minutes of August 26, 2008, meeting. -- Received

08-1013-14 Spirit Mountain recreation area authority minutes of August 21, 2008, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Councilor Gardner reported on her trip to Duluth's sister city of Ohara, Japan, and the importance of the sister city program.

Representatives of the Duluth's sister city of Petrozavodsk, Russia, were introduced and welcomed.

- - -

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

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 08-1013-03(a), which is levied to collect delinquent stormwater utility fees payable during the period of January 1, 2007, to December 31, 2007, as provided for in Article XI of Chapter 43 of the Duluth City Code, is hereby confirmed.

Resolution 08-0600 was unanimously adopted.

Approved October 13, 2008

DON NESS, Mayor

- - -

RESOLVED, that Resolution 07-0723 adopting license, permit and fee charges for 2008 is amended as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Pawnbroker transaction surcharge (per transaction)	\$4.00 \$2.00
--	--------------------------

RESOLVED FURTHER, that the appropriate city officials are authorized to refund pawnbroker transaction surcharge payments made in 2008 in a manner consistent with the amended fee provided for in this resolution payments to be made from Fund 100, Agency 200, Organization 1610, Revenue Source 4328.

Resolution 08-0602 was unanimously adopted.
Approved October 13, 2008
DON NESS, Mayor

- - -

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, 2009, subject to departmental approvals and the payment of sales and property taxes:

Rose Garden Enterprises, LLC (Valentini's Vicino Lago), 1400 London Road, with Carol Valentini, CEO and 50 percent stockholder, and Sonja Baertsch, member and 50 percent stockholder, transferred from MKR, Limited (Bennett's on the Lake), 600 East Superior Street.

Resolution 08-0567 was unanimously adopted.
Approved October 13, 2008
DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On September 3, 2008, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Dajer, Inc., d/b/a Lake Superior Bottle Shop, 31 East First Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 08-1013-20;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on October 13, 2008, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 08-1013-20 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Dajer, Inc., d/b/a Lake Superior Bottle Shop, 31 East First Street, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows:

(a) The offense occurring on April 3, 2008 is a first offense and a civil penalty of \$500 is imposed. Such fine payable within 30 days of council action;

(b) The offense occurring on June 19, 2008, is a second offense within a year and a civil penalty of \$750 and a one day license suspension is imposed. The second offense penalty is stayed for a one year period and shall be reduced to no penalty if no further violations occur during the one year period.

Resolution 08-0601 was unanimously adopted.
Approved October 13, 2008
DON NESS, Mayor

- - -

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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	T-Bonz, 2531 West Superior Street
Lake Superior Steelhead Association	Reef Bar, 2002 London Road
Glen Avon Hockey Association	Twins Bar, 501 East Fourth Street

Resolution 08-0606 was unanimously adopted.
Approved October 13, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Lipe Brothers Construction for window replacement at fire stations no. 4 and 7 in accordance with its low specification bid of \$28,139, payable out of Capital Fund 450, Department/Agency 030, Object 5520, CP 2008 OT-0809.

Resolution 08-0619 was unanimously adopted.
Approved October 13, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Erling R. Hansen, Inc., for masonry and tile repairs for shower room at Fire Station No. 1 in accordance with its low specification bid of \$20,800, payable out of Capital Fund 450, Department/Agency 030, Object 5520, CP 2008 OT-0805.

Resolution 08-0620 was unanimously adopted.
Approved October 13, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Lipe Brothers Construction for roof replacement, window replacement and tuckpointing at fire station no. 11 in accordance with its low specification bid of \$42,100, payable out of Capital Fund 450, Department/Agency 030, Object 5520, CP 2008 OT-0808.

Resolution 08-0621 was unanimously adopted.
Approved October 13, 2008
DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to First Witness Child Abuse Resource Center 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 08-0622 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Approved October 13, 2008
DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the environmental advisory council of David Syring (environmental representative) for a term expiring on January 5, 2011, replacing Charles E. Gessert who resigned, is confirmed.

Resolution 08-0616 was unanimously adopted.
Approved October 13, 2008
DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth does hereby authorize acceptance of reimbursement from the Duluth economic development authority (DEDA) for certain Baywalk signage expenses related to that Baywalk Extension IV project in the amount of \$21,286, said funds to be deposited into Fund 255.

Resolution 08-0599 was unanimously adopted.
Approved October 13, 2008
DON NESS, Mayor

- - -

RESOLVED, Resolution 08-0487 is amended pursuant to Minnesota Statutes 204B.21, appointing the following as election judges in the respective precincts for the November 4, 2008, state general election, as listed in Public Document No. 08-1013-21.

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 \$.585 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 08-0626 was unanimously adopted.
Approved October 13, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Kalkbrenner Plumbing and Heating, Inc., for the 2008 rehabilitation of private sewer services for the engineering division in accordance with its bid of \$146,550, payable out of Sanitary Sewer Fund 530, Department/Agency 500, Organization 1970, Object 5535, City Project No. 0730SN.

Resolution 08-0580 was unanimously adopted.
Approved October 13, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hearby authorized to enter into a second amendment to City Contract No. C-19554 with LHB, Inc., for engineering services for the replacement of Bridge No. L8501 over Amity Creek on Seven Bridges Road. The increase is for additional engineering services required for reconstruction of the northeast wingwall of Bridge L8501. This amendment increases the contract in the amount of \$4,119 for a new amount not to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

exceed \$95,049, payable from the Permanent Improvement Fund 0411, Department/Agency 035, Object 5530, City Project No. 0159TR, S.P. 118-080-31.

Resolution 08-0611 was unanimously adopted.

Approved October 13, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Nels Nelson & Sons, Inc., for 2008 citywide storm sewer repairs for the apparent low bid of \$99,874.99, payable out of Stormwater Utility Fund 0535, Department/Agency 500, Object 1905, City Project No. 0683ST/0648ST.

Resolution 08-0613 was unanimously adopted.

Approved October 13, 2008

DON NESS, Mayor

- - -

RESOLVED, that Resolution 08-0316 amending a contract to Ayres Associates, Inc., for professional engineering services be amended to increase the amount by \$35,665 for a new total of \$209,922, payable out of Street Improvement Fund 0440, Department/Agency 038, Object 5530, City Project No. 0127TR.

Resolution 08-0625 was unanimously adopted.

Approved October 13, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Construction Services, Inc., for the demolition of three structures at various city locations for the building safety and inspection office in accordance with the city's specifications and the vendor's low bid of \$37,500, terms net 30, FOB job sites, payable from the General Fund 100, Agency 100, Organization 1504, Object 5453.

Resolution 08-0604 was unanimously adopted.

Approved October 13, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized to enter into an agreement with Fond du Lac Tribal and Community College providing for the lease of equipment; said agreement to be substantially in the form of Public Document No. 08-1013-22 on file in the office of the city clerk, and providing for the payment of \$1; payments to be made from Fund 100-200-1640-2235.

Resolution 08-0607 was unanimously adopted.

Approved October 13, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized to enter into an agreement with Independent School District No. 709 providing for the lease of residential properties, said agreement to be substantially in the form of Public Document No. 08-1013-23 on file in the office of the city clerk, and providing for the indemnification of Independent School District No. 709.

Resolution 08-0608 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Approved October 13, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to act as a partner to St. Louis County under a safe and sober grant to be received by said county from the state of Minnesota, office of traffic safety, and to perform services provided for under such grant document (Public Document No. 08-1013-24) and to receive reimbursement therefor from said county up to the amount of \$11,500, said funds to be deposited in Fund 215, Agency 200, Organization 2278, Revenue Source 4220-02, for a period from October 1, 2008, through September 30, 2009.

Resolution 08-0609 was unanimously adopted.

Approved October 13, 2008
DON NESS, Mayor

- - -

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 Nicollet Street from 63rd Avenue West to 66th Avenue West.

Resolution 08-0610 was unanimously adopted.

Approved October 13, 2008
DON NESS, Mayor

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RESOLVED, that pursuant to Duluth City Code Section 35-9.1, Resolution 07-0723 adopting license, permit and fee charges for 2008 be amended to add the following fee:

Parks and Recreation	
License, permit, fee name	2008 Fee
Heritage Hockey Center usage fee, per hour	\$100.00

Resolution 08-0595 was unanimously adopted.

Approved October 13, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept the donation of \$10,000 from the Harrison Community Club to apply to the deductible for reconstruction of Harrison Community Center, said gifts to be deposited in Fund 450, Agency 030, Revenue Source 4660, and, on behalf of the city, thank the Harrison Community Club for their generous gifts.

Resolution 08-0603 was unanimously adopted.

Approved October 13, 2008
DON NESS, Mayor

- - -

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. 08-1013-25, with the Minnesota department of natural resources for the maintenance of the Duluth snowmobile trails for the 2008-2009 season in the amount of \$20,276; said funds to be deposited in the General Fund 100-500-1920-2550-4226.

Resolution 08-0615 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Approved October 13, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to enter into an agreement with St. Louis County, a copy of which is on file in the office of the city clerk as Public Document No. 08-1013-26, for the furnishing of home-delivered meals for senior citizens for the period of January 1, 2008, through December 31, 2008, at the reimbursement rate of \$2.00 per eligible non-waiver meal and \$6.20 per eligible waiver meal until September 30, 2008, and at the rate of \$2.00 per eligible non-waiver meal and \$6.32 per eligible waiver meal thereafter, said sums to be paid into Federal Program Fund 272, Department 031, Revenue Source 4654-02.

Resolution 08-0618 was unanimously adopted.

Approved October 13, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized to enter into a rental agreement with Alcoholics Anonymous providing for the weekly rental of meeting space, said agreement to be substantially in the form of Public Document No. 08-1013-27, on file in the office of the city clerk; payments to be deposited in Fund 100, Agency 400, Organization 1812, Object 5419.

Resolution 08-0623 was unanimously adopted.

Approved October 13, 2008
DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 08-0630, by councilors Gilbert, Gardner and Anderson, expressing the Duluth City Council's intent to support the sale of certain property to cover the 2008 operating deficit, not to support the sale of certain other property to replenish the operating reserve fund, and to support the temporary use of community investment trust fund monies as reserve for the 2008 operating fund; and Resolution 08-0629, by Councilor Fedora, rescinding resolution Nos. 08-0535 and 08-0571 relating to the intent to sell the Minnehaha stained glass window, were introduced for discussion.

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

Penny Clark, chair of the heritage preservation commission, Carolyn Sundquist, vice chair of the heritage preservation commission, Mary Evans, member of the Daughters of the American Revolution, David Poulin, president of the Park Point Community Club, Ken Buehler, executive director of the Depot, and Penny Perry expressed their concerns of: the heritage preservation commission is in the process of getting the two historical Tiffany windows designated as a local heritage preservation landmark; the financial aspect of selling the Tiffany windows should not overshadow the historical aspect; while the community club does not support selling any land on Park Point, it would support the reduction in the amount of land that the city is proposing to sell and the extra time and discussions have been appreciated.

Councilor Fedora moved to amend Resolution 08-0630 by deleting all references to the Minnehaha window, which motion was seconded and unanimously carried.

The council and mayor discussed at length the financial effects and difficulties of reducing the number of lots that would be sold and not selling the Tiffany windows.

Councilor Fedora noted that this resolution, like others in the past calls for utilizing community investment funds, which he did not support and therefore moved to amend the amended Resolution 08-0630 as follows:

(a) Delete the language of "AND TO SUPPORT THE TEMPORARY USE OF COMMUNITY INVESTMENT TRUST FUND MONIES AS RESERVE FOR THE 2008 OPERATING FUND" in the title;

(b) Delete the language of "and to support temporarily using community investment trust monies as reserve for the operating fund for the remainder of 2008 and" in the statement of purpose;

(c) Delete paragraph 7 relating to the community investment trust fund, which motion was seconded and discussed.

Councilors Gardner, Gilbert and Anderson opposed the amendment for reasons of: this community investment trust fund is not a "trust" and the interest can be used as decided by the council; if there is a deficit in funding this year, is it wise planning to have a solution such as utilizing the interest from this fund and what the interest is used for is not mandated or specified and therefore referencing it here is appropriate.

Councilors Fedora, Krause and President Reinert expressed their support for the amendment for reasons of: when this fund was original established, it was not the intent to utilize these funds for all the purposes that it has been; with the current economy, the interest earned from this fund will be adversely affected, which reduces the amount of roads repaired; this resolution's intent reflects that this interest will be used to balance the general fund and within the creation of the community investment trust fund it stated that the interest could be used for "infrastructure," but not to balance the checkbook.

Councilors Fedora's amendment carried as follows:

Yeas: Councilors Fedora, Fosle, Krause, Stauber and President Reinert -- 5

Nays: Councilors Anderson, Cuneo, Gardner and Gilbert -- 4

Resolution 08-0630, as amended, failed upon the following vote (Public Document No. 08-1013-28):

Yeas: Councilors Anderson, Gardner, Gilbert and President Reinert -- 4

Nays: Councilors Cuneo, Fedora, Fosle, Krause and Stauber -- 5

- - -

Resolution 08-0629 was adopted as follows:

BY COUNCILOR FEDORA:

WHEREAS, Resolution 08-0535 adopted on August 25, 2008, expressed the Duluth City Council's intent to sell the Minnehaha window to the highest bidder; and

WHEREAS, Resolution 08-0571 adopted September 8, 2008, expressed the council's intent to postpone approval of the sale of the Minnehaha window until at least October 13, 2008, to allow full exploration of potential local options to retain the window in Duluth.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

NOW, THEREFORE, BE IT RESOLVED, that city council resolution Nos. 08-0535 and 08-0571 are hereby rescinded and shall be of no force and effect.

Resolution 08-0629 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved October 13, 2008

DON NESS, Mayor

- - -

Resolution 08-0598, authorizing a fourth amendment to the fiscal year 2005 HOME program housing development project purchase/rehabilitation/resale Fourth Street Revitalization Agreement #19864 with Neighborhood Housing Services, extending the term an additional 12 months, was introduced by Councilor Stauber for discussion.

Councilors Krause and Fedora noted their concerns that: each agency that invests in a project should take the responsibility to manage the projects they undertake; a request for their 2007 financial statement has not been supplied and their 2006 federal Form 990 shows \$1.7 million in cash.

Resolution 08-0598 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into a fourth amendment, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 08-1013-29, to the HOME program housing development project purchase/rehabilitation/resale agreement with Neighborhood Housing Services (NHS), extending the term of the agreement to August 31, 2009.

Resolution 08-0598 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Stauber and President Reinert -- 6

Nays: Councilors Fedora, Fosle and Krause -- 3

Approved October 13, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to HOME Agreement 20627 with HRA, substantially in the form of that on file in the office of the city clerk as Public Document No. 08-1013-30, increasing the amount payable thereunder from \$37,950 to \$56,525, payable from 260 020-5434 CD08HM GN08-1736, said funding being received from the 2008 deferred revenue.

Project	Project Name	Budget	New Amount	Amount of Change
GN08HM-1736	HRA TBRA	\$37,950	\$56,525	\$18,575
2220	Deferred revenue	\$30,488	\$11,913	(\$18,575)

Resolution 08-0605 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved October 13, 2008

DON NESS, Mayor

- - -

Resolution 08-0627, by councilors Fedora, Krause and Fosle, requesting the Charter commission to recommend adoption of an amendment to Chapter VIII, Section 54(e), of the City Charter relating to the community investment trust fund, was introduced for discussion.

Councilor Fedora supported the resolution, stating that there is a need to have further debate on tightening the language up to allow only street repair and replacement.

Mayor Ness felt that this issue is much more complicated than it may appear, noting that: the city's credit rating remains high, because funding from this fund could be used if absolutely necessary; if the fund is specifically restrictive, it could downgrade the city's bond rating by up to 40 points; policy level decisions should not be in the Charter and high 7/9's vote by the council protects its use.

Resolution 09-0627 failed upon the following vote (Public Document No. 08-1013-31):

Yeas: Councilors Fedora, Fosle, Krause and Stauber -- 4

Nays: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

- - -

Resolution 08-0572, amending Resolution 07-0723 adopting license, permit and fee charges for 2008; creating a street lighting system utility fee of \$3.50 per month. was introduced by Councilor Fosle for discussion.

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INTRODUCTION AND CONSIDERATION OF ORDINANCE

ORDINANCE TABLED

INTRODUCED BY COUNCILOR CUNEO

08-064 (9931) - AN ORDINANCE CREATING A STREET LIGHTING SYSTEM UTILITY AND AUTHORIZING CHARGES THEREFOR, ADDING A NEW ARTICLE XII TO CHAPTER 45 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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

Tobbi Steger and David Ross, Duluth Area Chamber of Commerce executive director, expressed their concerns of: three of the street lights on each corner, should be off, to save costs, and the one remaining light should be directed downward; wind energy should be considered to keep electricity production costs down; this will be an extra burden on residents and businesses during these tough economic times and nonessential services should be looked at being reduced versus this fee.

Mayor Ness stated that: this proposal removes \$1.2 million from general fund expenses to the reserves; all aspects of operations have been affected by cuts; the intent is to put this specific function into its own enterprise fund, then there will be an attempt to focus on how savings can be achieved and capture the money in this fund for reinvestment and this is similar to the signal system fund.

Councilors Cuneo and Gardner supported this ordinance for reasons of: the mayor stated that he would strive to cut \$2 for every \$1 raised, and he seems to have accomplished this; light emitting diode (LED) lighting will save costs in the future and investing now will save further in the future.

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Councilors Fosle and Stauber expressed concerns of: this is just another added fee being imposed; there will be citizens that will be sent a bill even though they currently do not get a bill and there is already a electrical franchise fee and sales tax on everyone's electric bill.

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

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

Nays: Councilors Fedora, Fosle, Krause and Stauber -- 4

- - -

Resolution 08-0572 was adopted as follows:

RESOLVED, that pursuant to Duluth City Code Section 31-6(a), Resolution 07-0723 adopting license, permit and fee charges for 2008 be amended by creating a new category of street lighting system utility fee and establishing a fee of \$3.50 per month, which fees shall be effective as of the effective date of Section 45-108(a) of the Duluth City Code, 1959, as amended.

Resolution 08-0572 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

Nays: Councilors Fedora, Fosle, Krause and Stauber -- 4

Approved October 13, 2008

DON NESS, Mayor

- - -

Resolution 08-0628, adopting amended guidelines for the I&I program, was introduced by Councilor Fosle for discussion.

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

Beth Wentzlaff expressed concerns of: appreciation that the I&I is a problem and needs to be solved; realtors support that the "point of sale" be the place where this compliance is resolved; that the fee charged be the responsibility of the seller and that their organization would work to assist the city.

Councilor Stauber moved to amend the public document attached to the resolution as follows:

(a) In paragraph 4, add "If an administrative search warrant is to be sought, then timely notice must be given to any affected person that a warrant is being requested and that person may be present at any court proceeding to consider the requested search warrant";

(b) In paragraph 6, delete the monthly surcharge of \$250 and insert "as established by council resolution";

(c) In paragraph 12, add "If an inspection has been done in the previous 180 days and the dwelling has been found to be in compliance, no POS inspection will be required prior to sale," which motion was seconded and unanimously carried.

Resolution 08-0628, as amended, was adopted as follows:

WHEREAS, pursuant to Minnesota Statutes Section 471.342, the city is authorized to establish an inflow and infiltration (I&I) program to reduce inflow and infiltration of unpolluted waters into its sanitary sewer system; and

WHEREAS, pursuant to Subdivision 4 of said statute, the city is required to adopt program guidelines to establish program eligibility and program standards for compliance; and

WHEREAS, on March 23, 2007, the city council approved Resolution No. 07-0250 approving those revised I&I grant program guidelines on file in the office of the city clerk as Public Document No. 07-0409-19 (the 2007 guidelines); and

WHEREAS, it is necessary and appropriate to amend the 2007 guidelines to reflect adjustments in the program, the need for which have become apparent in implementing the 2007 guidelines and the implementation of point of sale inspections.

RESOLVED, that the revised I&I grant program guidelines are hereby rescinded and the amended I&I grant and loan program guidelines, seventh edition, dated September 12, 2008, on file in the office of the city clerk as Public Document No. 08-1013-32, are hereby adopted pursuant to the requirements of Minnesota Statutes Section 471.342, subd. 4.

Resolution 08-0628, as amended, was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Krause, Stauber and President Reinert -- 7

Nays: Councilors Fedora and Fosle -- 2

Approved October 13, 2008

DON NESS, Mayor

- - -

Resolution 08-0612, amending Resolution 05-0805 by deleting 30th Avenue West and inserting 21st Avenue West, was introduced by Councilor Cuneo.

Councilor Cuneo moved to table the resolution so there can be more discussions with the businesses affected, which motion was seconded and unanimously carried.

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Resolution 08-0574, by councilors Anderson, Gardner and Stauber, establishing rules for off-leash dog areas, was introduced.

Councilor Stauber moved to table the resolution for the parks and recreation commission recommendation, which motion was seconded and carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCES TABLED

INTRODUCED BY COUNCILOR GARDNER

08-060 (9929) - AN ORDINANCE AMENDING SECTIONS 2-2, 2-2.1, 2-2.2, 2-2.4, 2-12 AND 2-17; REPEALING SECTIONS 2-3, 2-4, 2-5, 2-6, 2-7, 2-8, 2-9, 2-10, 2-11, 2-13 AND 2-14; RENUMBERING SECTIONS 2-12, 2-15, 2-16, 2-17, 2-18.1 and 2-18.2 OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO CITY ADMINISTRATION.

Councilor Gardner move to remove the ordinance, as amended on September 8, from the table, which motion was seconded and unanimously carried.

Councilor Gardner reviewed that the police and fire departments have been removed from this reorganization ordinance. She opposed the ordinance for reasons of: when reorganization like this is done, with large consolidations, supervisors do not necessarily have the expertise or experience in the fields that they supervise and department heads should be experts in their fields.

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Krause, Stauber and President Reinert -- 7

Nays: Councilors Gardner and Gilbert -- 2

- - -

INTRODUCED BY COUNCILOR FOSLE

08-066 (9930) - AN ORDINANCE CLARIFYING SANITARY SEWER INFLOW AND INFILTRATION REGULATION AND PROVIDING FOR POINT OF SALE INSPECTIONS, AMENDING CHAPTER 43 OF THE CODE.

Councilor Fosle move 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.

Pat Johnson, president of the Duluth Association of Realtors, expressed support by her organization for the ordinance.

Councilor Krause moved to amend the ordinance by:

(a) Amending subsection 43-33.4(b) to add the phrase, "except as provided for in subsection (e) below" to the end of said subsection;

(b) Adding a new subsection (e) which reads as follows:

"(e) In the event that the director receives notice of a proposed sale or transfer and request for an inspection which complies with the requirements of subsection (b) above, but the department fails to complete the inspection required by this section prior to the date of the proposed closing contained in the notice or the date of the actual closing, whichever is later, the director shall provide a temporary waiver of the inspection requirement contained in subsection (b) above which shall be effective until the department shall offer to perform the required inspection on the property during ordinary business hours; the department shall attempt to make reasonable accommodation to the schedule of the acquiring party. Such waiver shall be subject to the acquiring party agreeing in writing to allow representatives of the department to enter upon the property for the purposes of making the inspection and shall be effective only until date the department proposes to make such inspection. Upon the inspection being made under this subsection, the property inspected and the acquiring party shall be subject to the requirements of this Article as if the inspection had been made prior to closing,"

which motion was seconded and carried and unanimously carried.

Councilor Stauber moved to amend the ordinance by deleting subsection 43-33.4(b) as contained therein and substituting the following subsection (b) therefore:

"(b) Upon the signing and acceptance of a legally binding offer to purchase or at least 30 days before a transfer of title to, or the entering into of a contract for deed for, or contract for sale of, real estate, which sale, transfer or contract gives a party other than the seller or transferor a right of possession, whichever occurs first, the seller or transferor shall notify the director of the date of the proposed sale or transfer closing and arrange for a building sewer inspection to determine whether the property requires a sump pump, building sewer trap removal, and footing drain disconnect in order to be in compliance with this Chapter. The seller or transferor shall pay an inspection fee to city in advance of the inspection to defray the city's costs of such inspection in an amount established from time to time by resolution of the city council. No

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

such sale or transfer shall be allowed to occur unless the director has been so notified and the property so inspected,”

which motion was seconded and unanimously carried.

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

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Krause, Stauber and President Reinert -- 7

Nays: Councilors Fedora and Fosle -- 2

- - -

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR GARDNER

08-083 - AN ORDINANCE AMENDING SECTION 1-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED; ADDING A DEFINITION FOR THE TERM “BUILDING OFFICIAL” AND AMENDING CHAPTER 10 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW SECTION 10-1.1 PROVIDING FOR A LIMITED DEFINITION OF THE TERM “BUILDING OFFICIAL.”

- - -

BY COUNCILOR STAUBER

08-086 - AN ORDINANCE PERTAINING TO ALLOCATION OF INCREASED PILOT FUNDS, AMENDING SECTION 48-28 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR FEDORA

08-085 - AN ORDINANCE AMENDING SECTION 29A-27, AND REPEALING SECTION 29A-32.1 OF CHAPTER 29A OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO THE RENTAL LICENSING 300 FOOT RULE.

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

Peter J. Mattson, Peter S. Mattson and Leland Levin expressed support for the ordinance for reasons of: their house is well kept, they have responsible tenants lined up and a good relationship with the neighbors, but they cannot get a rental license; accountability should be put on landlords; some landlords are grandfathered in, regardless of whether they are responsible or not; there are many different situations where responsible owners may have a need, even temporarily, to be able to rent their house out to responsible renters; the issues of noise, off street parking and public drunkenness should be enforced, but not through this ordinance; this 300 foot rule decreases the amount of single family homes to live in and young professionals are looking for single family homes to rent.

Gayle Ankarlo opposed the ordinance for reasons of: a two bedroom house across the street from her rents to five individuals with five cars and property values have dropped where there are so many rentals.

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INTRODUCED BY COUNCILOR ANDERSON

08-084 - AN ORDINANCE ALIENATING CERTAIN PROPERTY IN THE RAMSEY NEIGHBORHOOD OF DULUTH AND AUTHORIZING SALE AND CONVEYANCE OF SAME TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY FOR \$188,362.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR GILBERT

08-075 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL GAS UTILITY IN AN AMOUNT NOT TO EXCEED \$750,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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INTRODUCED BY COUNCILOR GILBERT

08-077 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL WATER UTILITY IN AN AMOUNT NOT TO EXCEED \$3,350,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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INTRODUCED BY COUNCILOR GILBERT

08-078 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY IN AN AMOUNT NOT TO EXCEED \$2,900,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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

Edward Alspach expressed concerns of where the money will come from to pay for these bonds and if the city would get their money's worth out these expenditures.

Councilors Fedora and Stauber expressed concerns of: the financial markets are in turmoil with a lack of liquidity; cities nationwide are cutting back bonding projects; Duluth's core debt level has risen; the city is borrowing faster than it is being paid back; "needs" like the system control and data acquisition (SCADA) system should have been prioritized before "wants"; these costs will be born by future generations and \$5 million are being spent each year in just interest costs.

Councilor Gilbert supported the ordinances, stating that the city's amount of bonding is far less than the average from other cities and financial rating companies have determined that the city has the capacity for this bonding and have reflected that in the low interest rates.

Chief Administrative Officer Lisa Potswald reviewed that: some of these bonds are for items already purchased in 2008; the city's bond counsel advises that municipal bonds are in high demand by financial investors and there is tight time line process to purchase bonds so she therefore requested that these be allowed to proceed.

The council and the administration discussed these ordinances at length and the rationale of "paying as you go" versus bonding.

Councilor Gilbert moved passage of Ordinance 08-075 and the same failed upon the following vote (Public Document No. 08-1013-33):

Yeas: Councilors Gardner, Gilbert and President Reinert -- 3

Nays: Councilors Anderson, Cuneo, Fedora, Fosle, Krause and Stauber -- 6

- - -

Councilor Gilbert moved passage of Ordinance 08-077 and the same failed upon the following vote (Public Document No. 08-1013-34):

Yeas: Councilors Gardner and Gilbert -- 2

Nays: Councilors Anderson, Cuneo, Fedora, Fosle, Krause, Stauber and President Reinert -- 7

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Councilor Gilbert moved passage of Ordinance 08-078 and the same failed upon the following vote (Public Document No. 08-1013-35):

Yeas: Councilors Gardner and Gilbert -- 2

Nays: Councilors Anderson, Cuneo, Fedora, Fosle, Krause, Stauber and President Reinert -- 7

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BY COUNCILOR KRAUSE

08-079 (9932) - AN ORDINANCE AMENDING CHAPTER 29A OF THE DULUTH CITY CODE, 1959, AS AMENDED BY ADDING A NEW ARTICLE IV.

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

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INTRODUCED BY COUNCILOR GARDNER

08-072 (9933) - AN ORDINANCE REPEALING ARTICLE XXI OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE EQUAL OPPORTUNITY ADVISORY COMMISSION.

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

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INTRODUCED BY COUNCILOR GARDNER

08-082 (9934) - AN ORDINANCE AMENDING CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED; ADDING A NEW SECTION 2-68 PROVIDING FOR THE EXPIRATION DATE FOR THE TERMS OF THE MEMBERS OF THE VARIOUS BOARDS AND COMMISSIONS.

Councilor Krause moved to amend the ordinance by adding the following sentence to the end of Section 2-68: "No person shall serve on any one board or commission for more than two consecutive terms," which motion was seconded and failed as follows:

Yeas: Councilors Fedora, Fosle, Krause and President Reinert -- 4

Nays: Councilor Anderson, Cuneo, Gardner, Gilbert and Stauber -- 5

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

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INTRODUCED BY COUNCILOR STAUBER

08-068 (9935) - AN ORDINANCE AMENDING SECTIONS 2-154 AND 2-157 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PROVIDING FOR THE NATURAL AREA PROGRAM GUIDELINE DEVELOPMENT PROCESS AND IDENTIFYING THE PROGRAM ADMINISTRATOR.

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

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INTRODUCED BY COUNCILOR STAUBER

08-069 (9936) - AN ORDINANCE REPEALING ARTICLE XXX OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE COMMISSION ON HIGHER EDUCATION.

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

Daniel Hartman opposed the ordinance, stating that the purpose of this commission was to have a means of communication between the universities and the city and repealing this commission eliminates that opportunity.

The administration noted that currently the commission is inactive and there has been good communication with the universities and task forces could be set up as needs arise, without having the regular meetings of a commission.

Councilor Gardner and President Reinert opposed the ordinance for reasons of: the value of having a commission is that you have a variety of individuals with different perspectives; citizen input is important to finding solutions; it costs nothing to keep it on the books; staffing should be the challenges to the universities; initially there was good participation and the issues have not gone away.

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

Yeas: Councilors Fedora, Fosle, Gilbert, Krause and Stauber -- 5

Nays: Councilors Anderson, Cuneo, Gardner and President Reinert -- 4

- - -

INTRODUCED BY COUNCILOR STAUBER

08-070 (9937) - AN ORDINANCE REPEALING ARTICLE XXVII OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE DULUTH HOUSING COMMISSION.

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

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INTRODUCED BY COUNCILOR STAUBER

08-071 (9938) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW SECTION 50-1.50.1 DEFINING THE RESIDENTIAL PARKING AREA, AMENDING SECTION 50-30 TO ESTABLISH THE AUTHORIZED PARKING AREAS ON A RESIDENTIAL LOT AND CREATING A VARIANCE FROM SUCH REGULATION.

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

Tony Fillman, Dan Matthes and Gary Kalligher opposed the ordinance for the reasons of: it is fundamentally wrong to consider an ordinance that is so intrusive on private property; this will not keep things neat and tidy; this will cause multiple shifting of traffic and more accidents; this will be an undo burden on residents; the fact the college is in the back yard of residences is known to those that purchase houses; a working relationship with the university is needed to resolve problems and specific issues; this was previously voted down; this penalizes homeowners; this affects the whole city; there are hundreds of these turn-around lots that are in violation; homeowners do not understand street easements, right-of-ways and set backs, so the word "lawfully" is deceiving; the parking commission has not addressed this issue; blacktopping a 100 foot plus driveway is not cheap and with the comprehensive plan and new zoning ordinance, all this will change.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Councilors Fedora and Fosle opposed the ordinance for reasons of: an individual had to spend \$24,000 on improvements in order to get a rental license, before he could sell it; individuals would have to park several blocks away on side streets; the city would be telling individuals what they can and can not do with their homes and this stipulates that blacktop or cement has to be put down.

Councilors Stauber, Gilbert and Gardner supported the ordinance for reasons of: this ordinance was requested by the police department to clarify the definition of "front yard"; this only applies to "R" zoned districts and if a driveway is currently illegal; there will be a process where individuals can apply for exceptions to this requirement and with Arrowhead Road being so wide, individuals should also be allowed to park on one side.

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

Yeas: Councilors Cuneo, Gardner, Gilbert, Krause and Stauber -- 5

Nays: Councilors Anderson, Fedora, Fosle and President Reinert -- 4

- - -

INTRODUCED BY COUNCILOR STAUBER

08-074 (9939) - AN ORDINANCE AMENDING SECTION 2-41 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PROVIDING FOR ADDITIONAL POWERS AND DUTIES OF THE PLANNING COMMISSION.

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

- - -

INTRODUCED BY COUNCILOR FOSLE

08-076 - AN ORDINANCE PROVIDING FOR HEARING OF WATER OR GAS SERVICE DISPUTES BY THE CHIEF ADMINISTRATIVE OFFICER AND ELIMINATING THE WATER AND GAS SERVICE HEARING BOARD, AMENDING SECTION 48-15.3 AND ARTICLE XV OF CHAPTER 48 OF THE CODE.

Ms. Potswald noted that this board has only met once in the last two years.

Councilors Gardner, Cuneo and Stauber opposed the ordinance for reasons of: with harder times coming, there will likely be greater need to have citizens involved in the hearing process and as a public entity, one person should not be making these decisions.

Councilor Fosle moved passage of the ordinance and the same failed upon the following vote (Public Document No. 08-1013-36):

Yeas: Councilor Fosle -- 1

Nays: Councilors Anderson, Cuneo, Fedora, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

- - -

BY COUNCILOR ANDERSON

08-081 (9940) - AN ORDINANCE REGULATING GRAFFITI; AMENDING CHAPTER 34 OF THE DULUTH CITY CODE, 1959, AS AMENDED, BY ADDING A NEW SECTION 34-41.

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert and Stauber -- 7

Nays: Councilor Krause and President Reinert -- 2

- - -

The meeting was adjourned at 10:30 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9929

AN ORDINANCE AMENDING SECTIONS 2-2, 2-2.1, 2-2.2, 2-2.4, 2-12 AND 2-17; REPEALING SECTIONS 2-3, 2-4, 2-5, 2-6, 2-7, 2-8, 2-9, 2-10, 2-11, 2-13 AND 2-14; RENUMBERING SECTIONS 2-12, 2-15, 2-16, 2-17, 2-18.1 and 2-18.2 OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO CITY ADMINISTRATION.

The city of Duluth does ordain:

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

Sec. 2-2. Distribution of city affairs among departments; enumeration of departments.

In accordance with the provisions of the Home Rule Charter of the city, as amended, the administration of the city's affairs shall hereby be distributed among no more than nine departments including, but not limited to:

- (a) Fire department; and
- (b) Police department.

The following city functions shall be distributed among departments:

- (a) All parks and recreational activities of the city;
- (b) Operation and maintenance of the system of public libraries;
- (c) All areas of planning, zoning, job training and business development;
- (d) All matters relating to the physical properties of the city;
- (e) All areas of human resource management;
- (f) All areas of information system management;
- (g) All matters relating to finance, including budget, audit, assessment, treasury and purchasing;
- (h) All matters related to city council record keeping;
- (i) All matters relating to the engineering operations, moveable bridge operations, and operation of the water, gas, sewer and stormwater utilities of the city and for all matters relating to the steam utility of the city requiring action by the city;
- (j) The extinguishment of fires, the saving of life and property from fire, the performance of various miscellaneous public services of an emergency nature, the inspection and abatement of fire hazards, and the conducting of an educational fire prevention program;
- (k) The enforcement and maintenance of law and order, the investigation of crimes, the preparation of evidence for the prosecution of criminal cases, the prevention and control of juvenile delinquency, the prevention of crime, the control of traffic, and the conducting of a traffic education program.

The appropriate department director(s), under the general supervision of the chief administrative officer, shall supervise the following officers of the city regarding the proper management of their respective offices:

(a) Treasurer. The treasurer shall be the custodian of all city funds, whether they be in cash, bank, deposits or securities duly purchased for investment; keep proper records of all receipts and disbursements in a manner recommended by the auditor; act as paymaster for all city payrolls; receive, record, collect and account for all special assessments in accordance with the provisions of the City Charter, the ordinances of the city and any applicable law; prepare and distribute proper statements and maintain records sufficient to enable interested parties to determine the current status of any property description in the city as to any outstanding assessment against such property; make a daily report of all receipts and disbursements to the auditor in sufficient detail as will enable the auditor to maintain an accurate record of the city's various funds and accounts; at the close of each month prepare and present to the auditor a report summarizing the receipts and disbursements as to fund and account, with a statement of balances in every bank acting as a depository for city funds; and who shall upon request of the director or chief administrative officer make special reports from time to time;

(b) Auditor. The auditor shall examine and audit the accounts of all officers and departments; prescribe the form of accounts and reports to be rendered to him/her; certify according to law all contracts, agreements or other obligations for the expenditure of public funds entered into by any official of the city government, and no such contract, agreement or other obligation shall be valid until so certified by him/her; prepare statements and give such other assistance in the preparation of the budget as may be required of him/her by the chief administrative officer; keep all general accounts of the city government and of the respective departments; and be charged with the custody of the official bonds of city employees and with the custody of all deeds, contracts, judgments, notes, debts and insurance policies;

(c) Assessor. The assessor shall be responsible for the valuations of all property within the city; and prepare all assessment rolls for special improvements in accordance with costs submitted by the city engineer. Such rolls when so prepared shall be submitted to the treasurer for collection upon certification by the city council.

(d) City clerk. The city clerk shall be responsible for the recording, filing, indexing and safekeeping of all proceedings of the council; record in full, uniformly and permanently, all ordinances and authenticate the same; supervise the publication of all ordinances in the official paper designated by the city council and such other official notices as may be his/her responsibility to so do; supervise elections and keep and maintain all election records and have custody of all property used in connection with elections; issue all permits and licenses except those which are required otherwise to be issued by a particular department or office; notify the appointing authority of the impending expiration of the term of office of a member of any board or commission (said notice to be given at least 30 days before such expiration); and be the custodian of the official seal of the city.

Section 2. That Section 2-2.1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 2-2.1. Qualifications of department heads.

All department heads appointed by the chief administrative officer shall possess the following minimum employment qualifications:

(a) Experience and education:

(1) Seven years of responsible managerial or administrative experience including supervisory experience, preferably in the field of work of the department to be director; and

(2) Graduation from college with a four-year degree or an advanced degree in public administration, business administration, other management related field, or a field of study appropriate to the department to be directed. An advanced degree in a management or related field may be counted as one year of experience;

(b) Knowledge and skill requirements:

(1) Extensive knowledge of effective management and supervisory practices;

(2) Knowledge of principles and practices of budget development and administration;

(3) Knowledge of principles and practices of personnel administration;

(4) Knowledge of the professional disciplines to be managed;

(c) Skills and abilities:

(1) Skill in planning, developing, operating and evaluating a comprehensive management program;

(2) Ability to establish and develop effective working relationships with public and private officials and others;

(3) Ability to exercise good judgment and accept personal responsibilities;

(4) Skill in communicating logically, persuasively and accurately both orally and in writing to groups and one-on-one; and

(5) Ability to interpret budgetary and other financial reports.

Section 3. That Section 2-2.2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 2-2.2. Qualifications of the deputy chief of police.

The deputy chief of police shall possess the following minimum employment qualifications:

(a) Experience and education:

(1) Ten years of experience as a sworn officer with the Duluth police department, of which five years shall be at a supervisory level, preferably as a lieutenant or above (either a bachelor's degree in a management or criminal justice field can be substituted for one year of supervisory experience, or a master's degree in a management or criminal justice field can be substituted for two years of supervisory experience);

(b) Knowledge and skill requirements:

(1) Knowledge of police administration theories, principles, methods and practices;

(2) Knowledge of state and federal laws and local ordinances pertaining to criminal investigation and indictment;

- (3) Knowledge of effective management and supervisory practices;
- (4) Knowledge of effective public relations techniques;
- (5) Knowledge of principles and practices of personnel administration;

tion;

(c) Abilities:

- (1) Ability to deal with people courteously and effectively;
- (2) Ability to establish and maintain effective working relationships with other agencies, within the criminal justice system, members of the communications media, and the public;
- (3) Ability to plan, supervise, administer and evaluate activities of the police department;
- (4) Ability to communicate effectively orally and in writing.

Section 4. That Section 2-2.4 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 2-2.4. Qualifications of the equal opportunity representative.

The equal opportunity representative shall possess the following minimum employment qualifications:

A bachelor's degree in public or business administration, human resources management, social science or a related field; plus two years of increasingly responsible experience in equal opportunity, affirmative action, human resources or related field.

(a) Knowledge of regulations and laws related to equal employment opportunity, affirmative action, pay equity discrimination and harassment;

(b) Ability to read and interpret government documents, laws, contracts and other related information;

(c) Ability to communicate effectively in writing and speaking, including the ability to speak before large audiences;

(d) Ability to maintain confidentiality;

(e) Ability to work cooperatively with community groups representing members of a protected class;

(f) Ability to collect, assemble and interpret data, and to make recommendations based on findings;

(g) Ability to maintain effective working relationships with other staff members, the public and elected officials.

(h) Basic knowledge of legal contract principles;

(i) Knowledge of effective supervisory principles and practices;

(j) Knowledge of problem-solving and conflict resolution techniques;

(k) Knowledge of interviewing methods and of investigation techniques and procedures.

Section 5. That sections 2-3, 2-4, 2-5, 2-6, 2-7, 2-8, 2-9, 2-10 and 2-11 of the Duluth City Code, 1959, as amended, be repealed in their entirety.

Section 6. That Section 2-12 of the Duluth City Code, 1959, as amended, be renumbered Section 2-3 and amended to read as follows:

Sec. 2-3. Administrative officers; authority to contract.

The chief administrative officer or his/her designee is hereby authorized to contract and pay for any medical examination for any person who is employed by

the city, or who is an applicant for employment by the city, for the purpose of determining any such person's suitability for such employment. Any such contract need not be in writing, and shall not obligate the city for more than \$5,000. The chief administrative officer or his/her designee shall reasonably attempt to obtain any such contract at the least cost, consistent with the character and quality of the examination needed and consistent with the urgency of such need.

The building official is hereby authorized to contract and pay for professional engineering services necessary to the enforcement of the various building and housing codes under his/her jurisdiction in an amount not to exceed \$3,000 per year.

Section 7. That Sections 2-13 and 2-14 of the Duluth City Code, 1959, as amended, be repealed in their entirety.

Section 8. That Sections 2-15 and 2-16 of the Duluth City Code, 1959, as amended, be renumbered Sections 2-4 and 2-5, respectively.

Section 9. That Section 2-17 of the Duluth City Code, 1959, as amended, be renumbered Section 2-6 and be amended to read as follows:

Sec. ~~2-17~~ 2-6. Library operations and services; fees.

The responsible department may charge user fees, rental fees and penalties in conjunction with the operation of the public library system including, but not limited to, penalties for overdue materials, rental fees for library meeting rooms and the use of library equipment, and nonresident user fees. Types of fees charged and the amounts of the fees shall be set by council resolution. The department may, in the collection of fees, utilize procedures set forth in the Revenue Recapture Act, Minnesota Statutes Chapter 270A, as a claimant agency.

Section 10. That Section 2-18.1 of the Duluth City Code, 1959, as amended, be renumbered Section 2-7.

Section 11. That Section 2-18.2 of the Duluth City Code, 1959, as amended, be renumbered Section 2-7.1.

Section 12. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: November 23, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Krause, Stauber and President Reinert -- 7

Nays: Councilors Gardner and Gilbert -- 2

Passed October 13, 2008

ATTEST:

Approved October 13, 2008

JEFFREY J. COX, City Clerk

DON NESS, Mayor

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ORDINANCE NO. 9930

AN ORDINANCE CLARIFYING SANITARY SEWER INFLOW AND INFILTRATION REGULATION AND PROVIDING FOR POINT OF SALE INSPECTIONS, AMENDING CHAPTER 43 OF THE CODE.

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Section 1. That Section 43-3.3 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

43-3.3.

(a) Building sewer. The extension of the building drain from a clean-out complying with the requirements of the Plumbing Code to the public sewer or other place of disposal including the "wye" pipe or other connection into the public sewer, also called house connection;

(b) Building sewer--sanitary. A building sewer which conveys wastewater only;

(c) Building sewer--storm. A building sewer which conveys storm water or other unpolluted water drainage but no wastewater.

Section 2. That Chapter 43 of the Duluth City Code, 1959, as amended, is hereby amended by the addition of a new Section 43-3.24.1, which reads as follows:

43-3.24.1. Plumbing Code. The Uniform Plumbing Code as amended and adopted by the state of Minnesota as the Minnesota State Plumbing Code and as the same may, from time to time, be further amended.

Section 3. That Chapter 43 of the Duluth City Code, 1959, as amended, is hereby amended by the addition of a new Section 43-3.24.2, which read as follows:

43-3.24.2. Point of sale certificate or POS certificate. A certificate issued by the director upon his or her determination either that the plumbing materials and equipment as installed and operating in the subject building are in compliance with the requirements of Section 43-31 below, or that the plumbing and equipment related to said building is not in compliance with the requirements of Section 43-31 below but the director determines that the building and building sewer is not contributing any material or observable amounts of unpolluted water to the public wastewater collection system and is not likely to do so in the future.

Section 4. That Section 43-27 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-27. Separate building sewer required.

(a) A separate and independent building sewer shall be provided for every building; except where an existing building stands at the rear of another or two or more buildings are served by a single building sewer which is in good repair and is adequately serving all properties connected thereto and no separate sewer has been constructed therefor, such building or buildings may continue to be connected to the building sewer of the front building and the whole considered as one building sewer, but the city shall have no obligation or responsibility for damage caused by or resulting from any such single connection aforementioned;

(b) When any building sewer serving more than one building is excavated in whole or in part for any reason, a separate and independent building sewer shall thereafter be provided for each such building.

Section 5. That Section 43-31 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-31. Unpolluted water prohibited.

(a) No leak, break, failure to function of a building sewer, or connection of area way drains, perimeter foundation drains, rain leaders, down spouts or rain

connector, or any condition of the building sewer that allows other sources of unpolluted waters, such as stormwater, ground water, roof runoff, subsurface drainage, unpolluted industrial water or cooling water, to enter a building sewer or building drain which is connected directly or indirectly to a public sanitary sewer shall be made or allowed to exist. Down spouts connected to roof gutters will not discharge water within two feet of the building foundations, and parallel to the property if within five feet of the property line. An exception of this will be if the building down spout is connected to a rain barrel with a minimum capacity of 35 gallons. The owner or operator is responsible for compliance with the requirements of this Article. From time to time, the city may offer programs, grants or incentives in an effort to improve the sanitary collection system. Regardless of these measures, it is the policy of the city to inspect, enforce and attain compliance with this Code for all buildings and sewers. Enforcement actions separate from any program or incentive are proper. Homes with existing sump pumps will be reinspected to ensure proper functioning. There shall be no fee for this reinspection;

(b) Upon completion of the construction, reconstruction, repair which includes excavation of any kind or replacement of any building sewer, said building sewer shall be capable of passing an air test in accordance with the plumbing code. Any such building sewer not capable of passing such air test shall either be further repaired or replaced in its entirety until it passes such air test;

(c) No person owning or controlling, in whole or in part, any building shall allow any condition or connection prohibited in subsection (a) above to be made or to exist, or shall fail to cause any such condition or connection existing to be disconnected or remedied within 90 days of discovery of the defect or of being ordered to make such disconnection or repair by the director. Any homeowners with redirected sump pump that deliberately discharges into the sanitary sewer system will be fined up to \$500 upon conviction for each offense. Additionally, any homeowner who installed a sump pump at any city expense which pump deliberately discharges into the sanitary sewer system will be required to reimburse the city for all costs associated with the installation of the sump pump;

(d) No person shall tamper with, modify or make any change to any plumbing materials or equipment necessary to prevent noncompliance with the requirements of Subsection (a) above. Nor shall any owner or person owning or controlling any building permit any person to so tamper with, modify or make any changes to such materials or equipment in such building or fail to maintain in fully functional condition such materials and equipment.

Section 6. That Section 43-33.4 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-33.4. Repairs required at time of sale.

(a) This Section 43-33.4 applies to transfers of ownership of or of possessory rights in property which property is required to be served by the city's public sanitary sewer, as set out in Section 43-16, or its successor;

(b) Upon the signing and acceptance of a legally binding offer to purchase or at least 30 days before a transfer of title to, or the entering into of a contract for deed for, or contract for sale of, real estate, which sale, transfer or contract gives a party other than the seller or transferor a right of possession, whichever occurs first,

the seller or transferor shall notify the director of the date of the proposed sale or transfer closing and arrange for a building sewer inspection to determine whether the property requires a sump pump, building sewer trap removal, and footing drain disconnect in order to be in compliance with this Chapter. The seller or transferor shall pay an inspection fee to city in advance of the inspection to defray the city's costs of such inspection in an amount established from time to time by resolution of the city council. No such sale or transfer shall be allowed to occur unless the director has been so notified and the property so inspected, except as provided for in subsection (e) below;

(c) If a building sewer contains a house trap and the footing drains are active, the trap shall be removed. If the property requires footing drain disconnections and sump pump installation, it shall be done. The required repairs shall be completed within 90 days of the date of the inspection referred to in subparagraph (b) above. If they are satisfactorily completed, the director shall issue a POS certificate with regard to footing drain contribution only but such POS certificate shall not evidence total compliance with all of the requirements of Section 43-31(a) above. If the required repairs are not satisfactorily completed within said 90 day period, the owner or customer shall be charged a monthly surcharge of \$250 each month until the repairs are satisfactorily completed;

(d) If, upon the inspection provided for in subparagraph (b) above, the director determines that the property qualifies, the director shall issue or cause to be issued a POS certificate which shall be valid for the proposed sale or transfer related to that inspection and for any other such sale or transfer occurring within 60 days of said proposed sale or transfer unless the director determines in the exercise of his or her discretion that there is sufficient reason to believe that said POS certificate does not accurately represent the existing condition of the property in question;

(e) In the event that the director receives notice of a proposed sale or transfer and request for an inspection which complies with the requirements of subsection (b) above, but the department fails to complete the inspection required by this Section prior to the date of the proposed closing contained in the notice or the date of the actual closing, whichever is later, the director shall provide a temporary waiver of the inspection requirement contained in subsection (b) above which shall be effective until the department shall offer to perform the required inspection on the property during ordinary business hours; the department shall attempt to make reasonable accommodation to the schedule of the acquiring party. Such waiver shall be subject to the acquiring party agreeing in writing to allow representatives of the department to enter upon the property for the purposes of making the inspection and shall be effective only until date the department proposes to make such inspection. Upon the inspection being made under this subsection, the property inspected and the acquiring party shall be subject to the requirements of this Article as if the inspection had been made prior to closing.

Section 7. That Chapter 43 of the Duluth City Code, 1959, as amended, is hereby amended by repealing Section 43-33.3 in its entirety.

Section 8. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: November 23, 2008)

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

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Krause, Stauber and President Reinert -- 7

Nays: Councilors Fedora and Fosle -- 2

Passed October 13, 2008
Approved October 13, 2008
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9931

AN ORDINANCE CREATING A STREET LIGHTING SYSTEM UTILITY AND AUTHORIZING CHARGES THEREFOR, ADDING A NEW ARTICLE XII TO CHAPTER 45 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Chapter 45 of the Duluth City Code 1959, as amended, is hereby amended by adding a new Article XII thereto which reads as follows:

Article XII. Street Lighting System Utility.

Sec. 45-106. Policy and purpose.

The city council has determined that, to promote the general health, safety and welfare of the citizens and residents of the city, it is in the best interests of said citizens and residents that the city operate and maintain a city-wide street lighting system utility and further has determined that the operation and maintenance of such a utility benefits each and every property within the city. The city council has therefore determined that it is fair, appropriate and reasonable that the costs of such operation and maintenance be paid on a fair and reasonable basis by all of the property in the city so benefitted and that cost thereof should be charged to and collected from all such benefitted property.

Sec. 45-107. Definitions.

For the purpose of this Article, the following words and phrases shall have the meanings given them in this Section:

Director. The director of public works or the director's designee.

Dwelling unit. A single unit that provides complete, independent living facilities for one or more persons including permanent provision for living, sleeping, eating, cooking and sanitation.

Operating and maintenance costs. The current paid or accrued expenses of operation, maintenance and current repair of the system, as calculated in accordance with sound accounting practices and includes, without limitation, administrative expenses, labor, the cost of materials and supplies used for current operations and charges for the accumulation of appropriate reserves for current expenses not annually incurred but which

are such as may be reasonably expected to be incurred in accordance with sound accounting practices.

Nonresidential property. All property other than residential property.

Residential property. Developed property that is classified by the city assessor as land use Types 1, 4 and 2a pursuant to Minnesota Statutes Section 273.13.

Street lighting system or system. The existing system of street lights and signalized intersection systems and related wires and equipment owned or maintained by the city and all improvements thereto which are the property and responsibility of the utility, to be operated by the utility to provide lighting on public streets.

Street lighting utility or utility. The utility created by this article to operate, maintain and improve the street lighting system.

Utility fee. A utility fee authorized this Article which is established to pay for operations and maintenance, extension and replacement and debt service.

Sec. 45-108. Utility fees and charges.

(a) The utility shall charge utility fees established from time to time by the council by resolution to recover from property benefitting from the system the debt service, operation and maintenance costs of street lighting system facilities in the city. Subject to the limitations contained in this Section, this Article shall apply to all property in the city of Duluth. The council may establish differing rates for residential property and non-residential property based on its determination of the reasonable benefits accruing to each such classification of property;

(b) The fees charged under this Article shall be charged along with and in the same manner as stormwater utility fees pursuant to Article XI of Chapter 43 of this Code. The utility fees established by this Article are the joint and several responsibility of the owner, lessee and the occupant of each lot or parcel subject to the fee. The city council may provide for penalties and interest for late payments in the resolution establishing the utility fee rate;

(c) In the event that any utility fees under this Article are not paid when due, the payment thereof may be enforced in the same manner as any other unpaid utility fee owed to the city including those owed with regard to water, gas or sewer service, which enforcement may include but shall not be limited to the right to discontinue any or all such water, gas or sewer service being provided to the benefitted property;

(d) In addition, delinquent utility fees shall be collected in the same manner as taxes against the property and may also be collected in an action at law against the owner, lessee or the occupant of the parcel. On or before July 1 of each year, the director shall transmit to the city assessor a list of all delinquent street lighting system utility fees for the preceding calendar year and the parcels which each delinquent fee relates to. Upon receipt of such list, the city assessor shall prepare a delinquent utility fee roll containing, in columns, the name of the owner, if known, of each lot or parcel where utility

fees are delinquent, a description of each lot or parcel and the amount of delinquent utility fees from the previous year. On or before August 1 of each year, the city assessor shall certify the delinquent utility fee roll to the city council. The city clerk shall send notice by first class mail to the apparent owner of each lot or parcel of land and any other party known to have a legal interest in the property stating the amount of the utility fee due, a description of the property, that the utility fees are due and payable before October 1 of that year and that the delinquent utility fee roll is on file in the office of the city clerk. If the city council finds the roll to be proper and correct, it shall by resolution confirm the roll on or before October 1. The confirming resolution shall contain a collection fee added to each amount due to reimburse the city for its administrative costs of collection. On or before the tenth day of October each year, the city treasurer shall file with the county auditor a certified statement of all delinquent utility fees under this Article, describing the land affected and giving the amount of the fee, with a ten percent penalty added, after which the delinquent fee shall be processed in the same manner as an assessment under the provisions of the City Charter.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: November 23, 2008)

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

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

Nays: Councilors Fedora, Fosle, Krause and Stauber -- 4

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 13, 2008
Approved October 13, 2008
DON NESS, Mayor

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ORDINANCE NO. 9932

BY COUNCILOR KRAUSE:

AN ORDINANCE AMENDING CHAPTER 29A OF THE DULUTH CITY CODE, 1959, AS AMENDED BY ADDING A NEW ARTICLE IV.

The city of Duluth does ordain:

Section 1. That Chapter 29A of the Duluth City Code 1959, as amended, is hereby amended by adding a new Article IV which shall read as follows:

Article IV. Crime Free Housing Program.

Sec. 29A-37. Findings of fact and statement of purpose.

The council finds that providing for the public health, safety and welfare requires a rental unit licensing and maintenance program that not only corrects substandard housing conditions and enforces a habitability standard for rental units as is currently provided for in Article II of this Chapter, but that also provides for the quiet enjoyment of the normal activities of life for occupants of rental properties and for the neighborhoods in which such rental properties are located.

It is the purpose of this Article to ensure that all residential rental units in the city are decent, safe, sanitary and operated and maintained in a manner that avoids

the creation of a nuisance to the neighborhood, an influence that fosters blight and deterioration, or creates a disincentive to neighborhood reinvestment. Property owners and managers are responsible for taking such reasonable steps as are necessary to ensure that the citizens of the city who occupy rental units may pursue the quiet enjoyment of the normal activities of life in surroundings that are safe, secure, sanitary and free from criminal activity and nuisances.

Sec. 29A-38. Definitions.

Unless otherwise provided in this Section, the definitions contained in sections 29A-1 and 29A-27 of this Chapter shall apply to this Article. In addition, for purposes of this Article the following words and phrases shall have the meanings respectively ascribed to them by this Section:

- (a) Disorderly behavior. Any of the following activities:
 - (1) A nuisance event as defined in Section 40-10 of this Code; or
 - (2) A violation of Chapter 49 of this Code or any state statute or federal law related to the ownership, possession or use of a firearm; or
 - (3) Illegal drug related activity including, but not limited to the illegal possession, manufacture, sale, distribution, purchase, use or possession with intent to manufacture, sell or distribute a controlled substance as defined in the Controlled Substance Act [21U.S.C. 802] or possession of drug paraphernalia as provided in Minnesota Statutes Section 152.092. A tenant shall be deemed to be in possession of a controlled substance if any amount is located in the tenant's rental unit even if the tenant denies knowledge of the controlled substance unless the tenant provides a notarized statement made under oath by a person, other than the tenant or a member of the tenant's household, that the controlled substance was in their possession and the tenant had no knowledge of the controlled substance; or
 - (4) Any violation of Chapter 34 of this Code; or
 - (5) Any act that jeopardizes the health, safety and welfare of the landlord, the landlord's agent or other tenants, or guests of tenants of a licensed premise;
 - (6) The following circumstances shall be deemed to be exceptions to the definition of disorderly behavior:
 - (A) An "emergency call" within the definition of Minnesota Statutes Section 609.78 and Subd.3, will not be considered an instance of disorderly behavior when the victim and suspect are "family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B 01, Subd. 2 (b) and there exists a report of domestic abuse as defined in the Domestic Abuse Act, Minnesota Statutes Section 518B 01, Subd. 2 (a);
 - (B) An "emergency call" within the definition of Minnesota Statutes Section 609.78, Subd. 3, will not be considered an instance of disorderly behavior if the call is a result of a tenant or guest of a tenant taking action to seek emergency assistance that is protected by Minnesota State Statute 504B.205;
- (b) Guest of the tenant. Any person present at the licensed premise by either the express or implied consent of a tenant;
- (c) Licensed premise. A rental unit, all common areas of the building in which a rental unit is located, all accessory structures and improvements located upon the real property, and the real property upon which a rental unit is located;

(d) Tenant. The lessee pursuant to a rental agreement and any member of the lessee's household.

Sec. 29A-39. Crime-free rental agreement provisions required; exceptions.

All rental agreements for any rental unit licensed as required by Article II, except for residential facilities licensed by the state, shall be assumed to contain the crime-free provisions of Section 29A-40.

Sec. 29A-40. Licensee duties; mandatory rental agreement terms.

(a) It shall be the responsibility of any tenant to ensure that all tenants and all guests of a tenant while on or about the licensed premise not engage in disorderly behavior;

(b) The licensee shall cause the commencement of an unlawful detainer or other eviction proceedings pursuant to the provisions of state law if a tenant violates the provisions of clause (c) of this Section on three or more occasions during a 12 month period;

(c) Except for rental agreements related to occupancy of a state licensed residential facility, and except as otherwise preempted by federal or state laws and regulations, all rental agreements for the occupancy of a rental unit entered into on or after January 1, 2009, shall be assumed to contain the following provisions:

(1) No tenant or guest of a tenant shall engage in disorderly behavior while on or about the licensed premise;

(2) No tenant or guest of a tenant shall aid or abet disorderly behavior occurring on or about the licensed premise;

(3) No tenant or guest of a tenant shall conspire with others to engage in disorderly behavior on or about the licensed premise;

(4) No tenant shall permit a guest of the tenant to engage in disorderly behavior on or about the licensed premise;

(5) Any violation of paragraphs 1-4, above, shall constitute a material violation of the rental agreement and shall constitute good cause for the immediate termination of the rental agreement;

(d) The licensee, prior to the commencement of the term of the rental agreement shall provide to the lessee(s) a written notice that contains the definition of disorderly behavior as provided by Section 29A-38(a), above, and the provisions of clause (c) of this Section and shall maintain a written acknowledgment signed by the lessee(s) acknowledging receipt of such notice;

(e) Prior to entering into any rental agreement, the licensee shall cause a criminal background check to be conducted on all prospective adult tenants. The criminal background check shall include a search for all misdemeanor, gross misdemeanor and felony convictions as follows:

(1) A state criminal history check covering the last three years and which utilizes the most recent update of the state criminal history files; or

(2) A criminal history check covering the last three years from the prospective tenant's previous state of residence, if available, if the prospective tenant is moving directly from another state; or

(3) Criminal history check from this state and the prospective tenant's prior state(s) of residence, if available, covering the three year period prior

to commencement of the tenancy if the prospective tenant's current period of residency in the state has been for less than a period of three consecutive years.

Sec. 29A-41. Revocation, suspension, declination or denial of a license; authority.

(a) In addition to the provisions of Section 29A-33 of this Chapter, the code official may revoke or suspend a current rental license, deny a new rental license or decline to renew a rental license issued under this Chapter as provided in this Section and Section 29A-42. In buildings containing more than one rental unit, the revocation, suspension, denial or declination may apply to one or more rental units at the discretion of the code official;

(b) The basis for such revocation, suspension, denial or declination includes, but is not limited to, any of the following circumstances:

(1) The license was procured by misrepresentation of material facts with regard to the rental unit or the ownership of the rental unit; or

(2) The applicant or one acting on behalf of the applicant made misstatements accompanying the application; or

(3) The applicant has failed to comply with any condition set forth in any other rental license granted to the applicant by the city; or

(4) The activities of the applicant or the applicant's agent create or have created a danger to the public health, safety or welfare; or

(5) The rental unit contains conditions that might injure or endanger the safety, health or welfare of any member of the public; or

(6) Failure to pay any application, penalty or reinstatement fees required by this Chapter and council resolution; or

(7) Failure to correct violations of this Chapter in the time period specified in the notice of violation and correction; or

(8) Failure to commence unlawful detainer or eviction proceedings following the third instance of disorderly behavior, except as provided by the postponement of enforcement as authorized in Section 29A-42; or

(9) Violation of any regulation or provision of the applicable to the activity, to which the license has been granted, or any regulation or law of the state so applicable; or

(10) Failure to continuously comply with any condition required of the applicant for the approval or maintenance of the license; or

(11) Any violation of this Chapter.

Sec. 29A-42. Abatement notice; procedure.

(a) The city shall respond as follows to a violation of the provisions of this Article:

(1) Upon occurrence of the first instance of a determination by the city that a rental unit was the location of an incident of disorderly behavior, the city shall cause notice to be made to the licensee, a property manager whose identity and address is on file in the office of the code official and the tenant of the rental unit. The notice shall direct the licensee to take steps to prevent further violations;

(2) Upon the occurrence of the second instance of the occurrence of an incident of disorderly behavior occurring at the rental unit within 12 months of the notice provided in clause (a)(1), above, the city shall cause notice to be made

to the licensee, a property manager whose identity and address is on file in the office of the code official, and the tenant of the rental unit. The notice shall direct the licensee to submit, within ten days of the date of the notice, a written abatement report of all actions taken by the licensee since the first notice and actions the licensee intends to take to prevent further disorderly behavior;

(3) Upon the occurrence of the third instance of disorderly behavior occurring at the rental unit within 12 months after the first of two previous notices, the city shall cause notice to be made to the licensee, a property manager whose identity and address is on file in the office of the code official, and the tenant of the rental unit. In addition to such notice, the code official shall revoke, suspend, or reject an application to renew the license. The code official shall make the decision to revoke, suspend or refuse to renew the license within 15 days of the notice.;

(b) For purposes of this Section, second and third instances of disorderly behavior shall be those which:

- (1) Occur at the same rental unit; or
- (2) Involve tenants of the same rental unit; or
- (3) Involve guests of a tenant at the same rental unit; or
- (4) Involve guests of the same tenant; or
- (5) Involve the same tenant;

(c) Notwithstanding the provisions of Section 29A-41, above, no adverse license action shall be imposed where the instance of disorderly behavior occurred during a pending unlawful detainer action or other eviction proceeding or within 30 days of notice given by the licensee to a tenant to vacate the rental unit, except that if the code official determines that the licensee has failed to diligently pursue such process, such adverse license action shall proceed. Further, an action to deny, revoke, suspend or not renew a license based upon violations of this Article may be postponed or discontinued at any time if the code official determines that the licensee has taken appropriate measures which will prevent further instances of disorderly behavior. Such measures may include, but are not limited to, evidence of a failed eviction process despite the licensee's diligent pursuit of same;

(d) A determination that the rental unit has been the location of disorderly behavior shall be made by a preponderance of the evidence to support such a determination. It shall not be necessary that criminal charges be brought in order to support a determination of disorderly behavior, nor shall the fact or dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this Article;

(e) The code official shall notify the licensee or the licensee's agent in writing of the basis for the revocation, suspension, denial or non-renewal and the date upon which the action takes effect. Notice of the action shall be posted at the rental unit and/or licensed premise by the code official. No person, other than the code official, shall remove or alter any posting. The notice shall indicate the date the rental unit or licensed premise shall be vacated and no person shall reside in, occupy or cause to be occupied the rental unit or licensed premise until the code official has so removed said posting and issued a valid license therefore.

Sec. 29A-43. Violation; penalty.

Any person who violates the provisions of this Article may be charged with a violation thereof and be subject to the penalty provided in Section 1-7 of this Code.
Sec. 29A-44. Enforcement alternatives.

Enforcement actions provided in this Article shall not be exclusive, and the city may take any action with respect to a licensee, a tenant, or a rental unit(s) as is authorized by this Code or state law.

Sec. 29A-45. Retaliation; waiver prohibited.

No licensee or the licensee's agent shall bar or limit a tenant's right to call for police or emergency assistance in response to domestic abuse or any other conduct or impose a penalty on a tenant for calling for police or emergency assistance in response to domestic abuse or any other conduct. A tenant may not waive and no such licensee or licensee's agent may require the tenant to waive the tenant's right to call for police or emergency assistance. Any such waiver contained in a rental agreement shall be null and void and unenforceable.

Sec. 29A-46. Appeal.

The action of the code official to revoke, suspend, deny an application for rental license or deny renewal of a rental license made pursuant to this Article is subject to appeal as provided in Section 29A-5 of this Code.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: November 23, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

Passed October 13, 2008
Approved October 13, 2008
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9933

AN ORDINANCE REPEALING ARTICLE XXI OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE EQUAL OPPORTUNITY ADVISORY COMMISSION.

The city of Duluth does ordain:

Section 1. That Article XXI of Chapter 2, of the Duluth City Code, 1959, as amended, relating to the equal opportunity advisory commission is hereby repealed in its entirety.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: November 23, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

Passed October 13, 2008

ATTEST:
JEFFREY J. COX, City Clerk

Approved October 13, 2008
DON NESS, Mayor

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ORDINANCE NO. 9934

AN ORDINANCE AMENDING CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED; ADDING A NEW SECTION 2-68 PROVIDING FOR THE EXPIRATION DATE FOR THE TERMS OF THE MEMBERS OF THE VARIOUS BOARDS AND COMMISSIONS.

The city of Duluth does ordain:

Section 1. That Chapter 2, of the Duluth City Code, as amended, is amended by adding a new Section 2-68 to read as follows:

Sec. 2-68. Terms of boards and commission members; expiration date.

Nothing to the contrary anywhere in this Code or other ordinances or resolutions of the city withstanding, the terms of the members of the various boards and commissions of the city shall end on March 31 of the years in which such terms would have ended if this Section had not been enacted; and the terms of their successors shall then begin. Unless otherwise provided in this Code, members shall serve until their successors are appointed and qualified.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: November 23, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

Passed October 13, 2008
Approved October 13, 2008
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9935

AN ORDINANCE AMENDING SECTIONS 2-154 AND 2-157 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PROVIDING FOR THE NATURAL AREA PROGRAM GUIDELINE DEVELOPMENT PROCESS AND IDENTIFYING THE PROGRAM ADMINISTRATOR.

The city of Duluth does ordain:

Section 1. That Section 2-154 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 2-154. Guidelines.

(a) Program guidelines to be adopted. The city council shall, by resolution, adopt program guidelines setting forth standards and criteria for consideration of inclusion of various tracts of property in the program, and for

selection and implementation of appropriate program protections and management plans for tracts so designated. The minimum standards and criteria for inclusion of a parcel in the program are:

- (1) The parcel is of special or unique ecological or environmental significance to the community as set out in Section 2-152, or its successor;
- (2) The parcel is eligible land as set out in this ordinance;
- (3) The parcel is one of the best remaining viable examples of a significant native plant communities area, or a special species area, or a natural water features area, or an important bird congregation area, or a geologic landform area. These terms may be more specifically defined in the program guidelines;
- (4) Inclusion of the parcel in the program is in compliance with any applicable state or federal laws or regulations;

(b) Initial guidelines. The initial program guidelines shall be developed by an appropriate administrative division of the city. Such initial program guidelines shall thereafter be reviewed by the planning commission and either recommended to the council for approval as presented, recommended for approval as modified by the commission or recommended for disapproval by the council. The council shall either approve the program guidelines as approved by the commission, adopt amended program guidelines or disapprove the program guidelines and return said program guidelines to the administration for further review and recommendation. This process shall continue until the council approves program guidelines for the program;

(c) Amendments. After the adoption of the initial program guidelines, the program guidelines may be amended at any time in accordance with the following process. Amendments to the program guidelines may be initiated by the city administration, by the planning commission or by the council. All proposed amendments initiated by the city council or city administration shall be referred to the planning commission for its review and recommendation to the city council.

Section 2. That Section 2-157 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 2-157. Program administrator.

The administrative division of the city responsible for planning and development is hereby designated as the program administrator for the program. The program administrator shall be responsible to provide all services necessary to the planning commission and the council necessary to the performance of their functions under this Article and under the program guidelines, to implement all aspects of the program including overseeing the implementation of the protections for properties designated under the program and implementation of the management program, to the extent that such implementation is the responsibility of the city, for maintaining all program records and for performing such other responsibilities as are set forth, from time to time, in the program guidelines.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: November 23, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

Passed October 13, 2008
Approved October 13, 2008
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9936

AN ORDINANCE REPEALING ARTICLE XXX OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE COMMISSION ON HIGHER EDUCATION.

The city of Duluth does ordain:

Section 1. That Chapter 2, Article XXX, of the Duluth City Code, 1959, as amended, relating to the commission on higher education, is hereby repealed in its entirety.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: November 23, 2008)

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

Yeas: Councilors Fedora, Fosle, Gilbert, Krause and Stauber -- 5

Nays: Councilors Anderson, Cuneo, Gardner and President Reinert -- 4

Passed October 13, 2008
Approved October 13, 2008
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9937

AN ORDINANCE REPEALING ARTICLE XXVII OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE DULUTH HOUSING COMMISSION.

The city of Duluth does ordain:

Section 1. That Chapter 2, Article XXVII, of the Duluth City Code, 1959, as amended, relating to the Duluth housing commission, is hereby repealed in its entirety.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: November 23, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

Passed October 13, 2008
Approved October 13, 2008
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9938

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW SECTION 50-1.50.1 DEFINING THE RESIDENTIAL PARKING AREA, AMENDING SECTION 50-30 TO ESTABLISH THE AUTHORIZED PARKING AREAS ON A RESIDENTIAL LOT AND CREATING A VARIANCE FROM SUCH REGULATION.

The city of Duluth does ordain:

Section 1. That Section 50 of the Duluth City Code, 1959, as amended, be amended to add a new Section 50-1.50.1 to read as follows:

Sec. 50-1.50.1. Parking area, R-District.

The area on a lot, where vehicles may be parked, unless the parking area has been permitted pursuant to Article III, Section 30 of this Chapter. The parking area shall be limited to an area that may include one side yard, the rear yard, and the following additional areas of the lot:

(a) On a lot, other than a corner lot upon which there exists a dwelling unit without garage, the parking area also includes the area between one side lot line and the nearest side wall of the dwelling unit and its extension to the improved street abutting the front yard;

(b) On a lot, other than a corner lot, upon which there exists a dwelling unit with a detached garage, the parking area also includes the area between the closest side lot line to the side wall of the dwelling unit nearest to the garage, and its extension to the improved street abutting the front yard;

(c) On a lot, other than a corner lot, upon which there exists a dwelling unit with attached garage, the parking area also includes the area between the closest side lot line to the common wall separating the dwelling unit and the garage, and its extension to the improved street abutting the front yard;

(d) On any corner lot, any parking area in addition to the rear yard and one side yard, may be granted by variance as provided in Section 50-30.

Section 2. That Section 50-30 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-30. Location of required parking spaces in front yards; parking area variance.

(a) Off street parking space may be located within the required front yard of any C or M district, but no parking lot shall be located nearer than 50 feet to any S or R district;

(b) In any R district, parking in the front yard shall be limited to the parking area-R district;

(c) In any R district the parking area shall be surfaced in a dust free, hard surface type material such as concrete or bituminous, or pervious paving materials. Aggregate materials, compressed aggregates or other similar type surfaces shall not be permitted. All parking areas shall comply with this clause after August 15, 2009. The requirements of this clause shall not apply to any parking area lawfully in existence on June 1, 2009;

(d) Parking areas located in rear yards may be surfaced with aggregate materials, compressed aggregates or other similar type surfaces. All parking areas shall comply with this clause after August 15, 2009. The requirement of this clause shall not apply to any parking area lawfully in existence on June 1, 2009;

(e) On any lot in any R district where the parking area-R district is of insufficient size or configuration to allow for compliance with the off street parking requirements of this chapter, or other laws or regulations, or on a corner lot, a variance may be granted pursuant to Article VI of this Chapter; provided that no variance shall be granted unless the board finds that the reason for the variance is due to the existence of a hardship. The hardship requirement shall not apply to corner lots. For purposes of this Section a hardship exists when it can be demonstrated that circumstances exist which are unique to the property and which were not created by either the current or prior owner. Economic considerations, in whole or part, shall not constitute a hardship. The application for variance shall include a site plan that provides an accurate depiction of the lot size, configuration, and requested variance area. The variance shall be granted only upon compliance with the following additional conditions, and any other conditions determined by the board to be reasonable and necessary to protect the interests of the abutting property owners an the residential character of the surrounding neighborhood:

(1) Except on a corner lot, on a lot with frontage of less than 50 feet, only one parking area may be located outside the parking area-R district. On a lot with frontage of 50 feet or greater, such parking area, including any driveway areas leading to it, shall not exceed an additional 30 percent of the front yard;

(2) On a corner lot the variance may allow for compliance with the off street parking requirements of this chapter, or other laws or regulations. On a lot with frontage of 50 feet or greater, no variance may allow a parking area, including any driveway area leading to it, to exceed an additional 30 percent of the front yard;

(3) The proposed parking area shall be located in its entirety upon the lot and shall not encroach into the street line or across any abutting lot line unless such abutting lot and the subject lot are under the same ownership and the abutting lot is not occupied by a dwelling unit. Where the proposed parking area will encroach into any unimproved area of a street, the variance shall expire upon improvement of the street.

Section 3. That this ordinance shall take effect June 1, 2009.

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

Yeas: Councilors Cuneo, Gardner, Gilbert, Krause and Stauber -- 5

Nays: Councilors Anderson, Fedora, Fosle and President Reinert -- 4

Passed October 13, 2008

Approved October 13, 2008, pursuant to Section 12 of the Duluth City Charter.

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ORDINANCE NO. 9939

AN ORDINANCE AMENDING SECTION 2-41 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PROVIDING FOR ADDITIONAL POWERS AND DUTIES OF THE PLANNING COMMISSION.

The city of Duluth does ordain:

Section 1. That Section 2-41 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 2-41. Powers and duties.

In addition to the powers and duties granted to the planning commission by this Code, by the ordinances of the city of Duluth and by the laws of the state of Minnesota, the planning commission shall serve as the responsible governmental unit and conduct environmental reviews pursuant to Minnesota Statutes Chapter 116D and the applicable state regulations.

Section 2 That this ordinance shall take effect 30 days after its passage and publication. (Effective date: November 23, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

Passed October 13, 2008
Approved October 13, 2008
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9940

BY COUNCILOR ANDERSON:

AN ORDINANCE REGULATING GRAFFITI; AMENDING CHAPTER 34 OF THE DULUTH CITY CODE, 1959, AS AMENDED, BY ADDING A NEW SECTION 34-41.

The city of Duluth does ordain:

Section 1. That Chapter 34 of the Duluth City Code, 1959, as amended, be amended by adding to Chapter 34 a new Section 34-41 to read as follows:

Sec. 34-41. Graffiti.

(a) Findings and purpose.

(1) The city council finds that the presence of graffiti and its proliferation results in deterioration of property values and has an overall negative impact on the entire community;

(2) The city council declares the existence of graffiti to be a public nuisance and intends, through the adoption of this ordinance, to create enforcement tools to prevent graffiti vandalism and to establish a program for graffiti removal;

(b) Definitions. For the purposes of this Section, the following terms shall have the meanings stated below:

(1) Administrative lieutenant. The administrative lieutenant of the Duluth police department or her/his designee;

(2) Aerosol paint container. Any aerosol container that is adapted or made for the purpose of applying spray paint or other substances capable of defacing property;

(3) Broad-tipped marker. Any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than 1/4 of an inch, containing ink or other pigmented liquid that is not water soluble;

(4) Etching equipment. Any tool, device, or substance that can be used to make permanent marks on any natural or man-made surface;

(5) Graffiti. Any inscription, word, figure, painting, symbol or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed by any graffiti implement to any surface of public property or private property without the possessor's permission, or despite such permission, is otherwise deemed a public nuisance by the city council;

(6) Graffiti implement. An aerosol paint container, a broad-tipped marker, gum label, graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or man-made surface;

(7) Graffiti stick. Any device containing a solid form of paint, chalk, wax, epoxy or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least 1/4 of an inch in width;

(8) Gum label. Any material that adheres to a natural or man-made surface by an adhesive substance;

(9) Owner or property owner. Those shown to be the owner or owners of property on the records of the St. Louis County auditor's office;

(10) Possessor. Those having a superior right of possession, custody or control of property;

(c) Prohibited acts.

(1) Defacement. No person shall intentionally apply graffiti to any natural or man-made surface on any publicly or privately owned property;

(2) Possession of graffiti implements. Unless otherwise authorized by the possessor, it is unlawful for any person to possess any graffiti implement while:

(A) On public property or private property of another where graffiti is located; or

(B) Within 200 feet of any graffiti located in or on any primary or secondary school building or structure; or

(C) Within 200 feet of any graffiti located in or on any building or structure owned or operated by a governmental entity or agency, religious organization or non-profit organization;

(3) Possession of graffiti implements by minors at or near school facilities. It shall be unlawful for any person under the age of 18 years to possess any graffiti implement while on any school property, grounds, facilities, buildings, or structures, or on public property in areas immediately adjacent to those specific locations, or upon private property without the prior written consent of the possessor of such private property. The provisions of this Section shall not apply to the possession of broad-tipped markers by a minor attending or traveling to or from a school at which the minor is enrolled if the minor is participating in a class at the

school that formally requires the possession of broad-tipped markers. The burden of proof in any prosecution for violation of this Section shall be upon the minor student to establish the need to possess a broad-tipped marker.

(4) Furnishing to minors prohibited. It shall be unlawful for any person, other than a parent or legal guardian, to sell, exchange, give, loan or otherwise furnish, or cause or permit to be exchanged, given, loaned or otherwise furnished, any aerosol paint container, broad-tipped marker or graffiti stick to any person under the age of 18 years without the written consent of the parent or guardian of the person;

(d) Graffiti as nuisance.

(1) Declaration. The city council has declared the existence of graffiti on publicly viewable surfaces in violation of this Section to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this Section;

(2) Duty of property owner. It is the duty of the owner of the property to which graffiti has been applied to immediately remove the graffiti from the property;

(3) Repeat violations. If a property is subject to three or more occurrences of graffiti within a year, application of anti-graffiti material of a type and nature that is acceptable to the administrative lieutenant may be required for each of the publicly viewable surfaces after notification by the administrative lieutenant, or imposed during improvements or construction activities to the site as determined by the administrative lieutenant;

(e) Removal of graffiti.

(1) At the cost of the perpetrator. The administrative lieutenant may require any person applying graffiti on public or private property to pay for all costs of removal of the graffiti within 24 hours after notice by the city or property owner. The removal must be performed in a manner prescribed by the administrative lieutenant, with materials and colors compatible with existing surfaces, and to a comparable or improved condition before the graffiti application as determined by the administrative lieutenant. Where graffiti is applied by a person under 18 years old, the parents or legal guardian will also be liable for payment of the costs of removal pursuant to Minnesota Statute §540.18. Failure of any person to remove graffiti or pay for the removal will constitute an additional violation of this Section;

(2) By property owner. In lieu of the procedure set forth in Section 34-41(e)(1), the administrative lieutenant may order that the graffiti be removed by the property owner pursuant to the nuisance abatement procedure herein. Graffiti removal and corrections must be performed within 14 days of being notified in writing by the city. Written notice may be given through service by mail to the owner's address last shown in the records of the office of the St. Louis County auditor, by posting a notice on the property, or by personal delivery to the owner. Where the property is unoccupied or abandoned, service may be by mail to the last known owner as shown in the records of the office of the St. Louis County auditor or by posting on the property. The abatement shall be with materials and colors compatible with existing surfaces and to a comparable or improved condition before the graffiti application as determined by the administrative lieutenant. If the property

owner fails to remove graffiti within said time period, the city may commence abatement and cost recovery proceedings for the graffiti removal in accordance with this Section;

(f) Abatement procedure.

(1) Abatement by city. If the owner does not comply with the notice within the time specified, the city may abate the public nuisance;

(2) Notice and hearing. The following notification must be conducted prior to city abatement of the public nuisance. Whenever it is determined that a public nuisance is being maintained or exists on a property, the administrative lieutenant must give 14 day's written notice through service by mail to the owner's address last shown in the records of the office of the St. Louis County auditor, by posting a notice on the property, or by personal delivery to the owner. Where the property is unoccupied or abandoned, service may be by mail to the last known owner as shown in the records of the office of the St. Louis County auditor or by posting on the property. The notice must state:

(A) A description of the public nuisance;

(B) That the public nuisance must be corrected within 14 days of the service of the notice;

(C) That if the public nuisance is not properly removed or corrected as ordered, the public nuisance will be abated by the city and the costs of abatement will be specially assessed to the property taxes;

(D) That the owner of the property on which the public nuisance is located may in writing request a hearing before the city council;

(E) If a hearing is requested during the 14 day period, the administrative lieutenant must promptly schedule the hearing and no further action on the abatement of the public nuisance may be taken until the city council's decision is rendered. At the conclusion of the scheduled hearing, the city council may cancel the notice to remove or correct the public nuisance, modify the notice, or affirm the notice to remove or correct the public nuisance. If the notice is modified or affirmed, the public nuisance must be disposed of in accordance with the city's written order;

(F) Summary abatement. The enforcing officer may provide for abating a public nuisance without following the procedure required in Section 34-41 (f) when:

1. There is an immediate threat to the public health or safety;

2. There is an immediate threat of serious property damage; or

3. Any other condition exists that violates state or local law and that is a public health or safety hazard;

4. A reasonable attempt must be made to notify the owner of the intended action and the right to appeal the abatement and cost recovery at the next regularly scheduled city council meeting;

(g) Assessment for graffiti removal.

(1) List of delinquent accounts. On or before June 1 of each year, the administrative lieutenant shall transmit to the city assessor a list of properties

which the city has abated under this Section and for which the city has not been paid, together with the amount due with respect to each such property. Such list shall be accompanied by a verified statement that the amounts indicated are in fact due and owing. For each account transmitted, a collection fee in the amount set by city council resolution shall be added to reimburse the city its administrative costs;

(2) Preparation of roll. Upon the receipt of such lists, the city assessor shall make an assessment roll containing, in columns, the name of the owner of each lot or parcel of land separately assessed, if known to him, together with a description of each such lot or parcel of land and the amount of such assessment. The assessment roll shall include the collection fee set forth in Section 34-41(g)(1);

(3) Notice. On or before July 1 of each year, the city assessor shall certify the assessment roll to the city council. The assessor shall give 20 days notice by first class mail to the owner of each lot or parcel of land and any other party shown in the records of the office of the St. Louis County auditor to have a legal interest in said land stating the amount of the assessment, including the collection fee, the description of the property, that the assessment roll is on file in the assessor's office and that any party aggrieved by the assessment may appeal the assessment to the chief of police by filing a written notice of appeal with the chief of police within 20 days after the date of the notice of assessment. Such notice shall indicate that the assessment, including the collection fee, is due and payable to the city on or before October 1 of the current year. Failure to make payment by such date shall render the assessment delinquent;

(4) Appeal to the chief of police. Any party aggrieved by an assessment made pursuant to this Section may appeal such assessment by filing within 20 days after the date of notice of assessment a written notice of appeal with the chief of police. The notice shall state the precise grounds upon which the appeal is taken. The chief of police shall notify the appellant of the time and place of the hearing. At the hearing, the chief of police shall hear and determine all objections made to the regularity of the proceedings or to the correctness of the amount of such assessment or of the amount levied upon a particular lot or parcel of land. If the proceedings are found to be regular and the amounts claimed had been properly billed to the owner of the premises, the chief of police shall correct any errors which may have been found in the assessment and shall thereupon recommend that the city council by resolution confirm such assessment. To each assessment a collection fee shall be added in an amount set by council resolution to reimburse the city its administrative assessment costs. After all appeals are heard and determined, the city council shall confirm the entire assessment roll by resolution. Immediately thereafter notice of the confirmed assessment and its amount, including the collection fees, shall be sent by the city treasurer by mail to the owner of each lot or parcel of land assessed. Such notice shall indicate that the assessment is due and payable on or before October 1 of the year when confirmed and that failure to make payment by such date shall render the assessment delinquent;

(5) Certification of delinquent assessments. After the city council confirms the assessment roll, the city treasurer shall file with the county auditor, during the time set by law for such filings, a certified statement of all assessments

delinquent under this Section, describing the land affected and giving the amount of the assessment, with ten percent penalty added, after which the assessment shall follow the provisions of Section 70 of the City Charter. All accounts, including interest and penalty thereon, collected by the city treasurer for services rendered and paid for by the city under this Section, shall be retained by the city;

(6) Applicability of certain Charter provisions to Chapter. The provisions of sections 64, 65, 66 and 67 of the City Charter with reference to appeals to the district court shall apply to the provisions of this Section in reference to the confirmation of assessments. The other provisions of such sections shall also apply to this Section.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: November 23, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert and Stauber -- 7

Nays: Councilor Krause and President Reinert -- 2

Passed October 13, 2008
Approved October 13, 2008
DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 27, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

- - -

The minutes of the council meeting held on July 28, 2008, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-1027-01 The following communications regarding proposed ordinance to repeal the rental licensing 300 foot rule (08-085-O): (a) Stacey Achterhoff; (b) Daniel O. Ahonen; (c) Jim Aird; (d) Jerry R. Anderson; (e) Nancy Anderson; (f) Colleen M. Belk; (g) Patrice Bradley; (h) Karl and Molly Broderius; (i) Lisa Cerri; (j) Mary Dodge; (k) Debra Lee Dowell; (l) Christine and Patrick Fairchild; (m) Derek Forseth; (n) Mary Gallegos; (o) Mary Ann Harala; (p) Candice R. Hart; (q) Sheryl W. Homan; (r) Tad Johnson; (s) Luanne R. Kaspszak; (t) Ann M. Kerr; (u) Karen and Bob Kilpo; (v) Diane Kolstad; (w) Teresa Koivula; (x) Richard and Mary Laumeyer; (y) Candy Lee; (z) Kevin Lomen; (aa) Rodney Lubiani; (bb) Sherry Marek; (cc) Kathy Mathias; (dd) Ryan E. Mears; (ee) Yvonne Patterson; (ff) Sherri Puckett; (gg) Lisa Nyberg Smith; (hh) Jim Snow; (ii) Adam Swor; (jj) Jack Tyllia; (kk) Joe Walker; (ll) Sara Ward; (mm) Kirk Witte. -- Received

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REPORTS FROM OTHER OFFICERS

08-1027-02 Clerk application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from Rotary Club of Duluth on March 5, 2009. --Received

08-1027-03 Purchasing agent emergency order awarded to Braun Pump and Controls for Chicago pump for Lift Station No. 6 for \$43,901.43. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

08-1027-04 Charter commission minutes of July 9, 2008, meeting. -- Received

08-1027-05 Duluth/North Shore Sanitary District minutes of September 10, 2008, meeting. -- Received

08-1027-06 Parks and recreation commission minutes of September 10, 2008, meeting. -- Received

08-1027-07 Planning commission minutes of September 9, 2008, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Jay Cole urged the council to support public schools and the school district's red plan levy, and take a leadership role to work with the public and nonprofits to help our community empower individuals through entrepreneur training.

- - -

Wendy Wohlwend explained that the city is setting up a contract with the zoological society and the employees have been notified of a January 3 layoff date. She reviewed that there is a 15 year court order that states cities are prohibited from contracting out to third parties jobs previously performed by bargaining unit members and requested the city council to follow that law as there has been no attempt to negotiate with the zoo employees.

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Ray Washburn stated that he has been a zookeeper for 32 years and was informed he will be forced to retire on January 3, which is three months short of his rule of 90. He continued by saying that Chief Administrative Officer Lisa Potswald told the zoo employees in June they were going to be able to keep their jobs through the transition, and then in October they were told they were being laid off on January 3, which is no way to treat long term employees.

- - -

Paul Anderson, Dena Petite, Jenny Monroe, Nancy Butler and Dave Homstand stated that the city has been living with shortages at the zoo for many years, but all the employees want to make it a viable and a good place for people to come. They urged the city to work to make it a public/nonprofit cooperative and keep city employees to take care of the city assets.

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Ken Loeffler Kemp reviewed that the city is planning on contracting out the administration and the animal care work that is currently being done by AFSCME union workers, and urged the council to consider the highly successful Minnesota and Como Park zoo models of public and private partnership.

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

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 general obligation street improvement refunding bonds, Series 2008F, in the approximate amount of \$3,135,000 (the bonds), pursuant to Minnesota Statutes, Chapter 475 and the City Charter, for the purpose of refunding the city's general obligation bonds, Series 1999C, dated June 1, 1999;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 08-1027-08. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds. Due to changes in the municipal bond market, the city administrator, with the advice of the city's financial consultant, may modify the official terms of offering regarding the maturity schedule, the minimum bid and the maximum bid prior to the sale 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 sale for the bonds in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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 a subsequent resolution of this city council.

Resolution 08-0641 was unanimously adopted.

Approved October 27, 2008

DON NESS, Mayor

- - -

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 general obligation tax increment refunding bonds, Series 2008G, in the approximate amount of \$2,025,000 (the bonds), pursuant to Minnesota Statutes, Chapter 475 and the City Charter, for the purpose of refunding the city's general obligation tax increment bonds, Series 1999D, dated June 1, 1999;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 08-1027-09. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds. Due to changes in the municipal bond market, the city administrator, with the advice of the city's financial consultant, may modify the official terms of offering regarding the maturity schedule, the minimum bid and the maximum bid prior to the sale 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 sale for 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 a subsequent resolution of this city council.

Resolution 08-0642 was unanimously adopted.

Approved October 27, 2008

DON NESS, Mayor

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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 08-0632 was unanimously adopted.

Approved October 27, 2008

DON NESS, Mayor

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RESOLVED, that the appointment by Mayor Ness of Michael Cowles to the Duluth legacy endowment fund advisory board for a term expiring on July 12, 2009, replacing Brian Graff who resigned, is confirmed.

Resolution 08-0633 was unanimously adopted.

Approved October 27, 2008

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED, that the reappointment by Mayor Ness to the technical design advisory committee for the DWMX-D of Ryan E. Mears (architect) for a term expiring on May 31, 2011, is confirmed.

Resolution 08-0634 was unanimously adopted.
Approved October 27, 2008
DON NESS, Mayor

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RESOLVED, that the reappointments by Mayor Ness to the commission on disabilities of Sara Junge, Terry Mattson, Francis B. McGee, Kimberly A. McKay and Beverly Strongitharm, for terms expiring on November 1, 2011, are confirmed.

RESOLVED FURTHER, that the appointments by Mayor Ness to the commission on disabilities of Chrissy M. Ehlenbach and Tony Rubin for terms expiring on November 1, 2010, replacing Bryan Jensen and David Moberg, are confirmed.

Resolution 08-0638 was unanimously adopted.
Approved October 27, 2008
DON NESS, Mayor

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RESOLVED, that the Duluth City Council finds that:

(a) A sufficient petition was filed with the city clerk requesting the vacation of part of a utility easement located on 27th Avenue East adjacent to Lot 16, Block 3, Harrison's Division (FN 08052); and

(b) 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, the city planning commission found that the petitioned utility easement is useless, based on the findings that the proposed utility easement vacation will allow the city to maintain the sewer line in 27th Avenue East, there will be no impact to the pedestrian easement, arrangements have been made to relocate the power line, and the property owner will be able to clear his title and construct a garage; and

(c) The planning commission, at its October 14, 2008, regular meeting, did approve, unanimously, vacating the utility easement petitioned for vacation; and

(d) That the city council concurs with the planning commission's finding contained in finding (b) above.

RESOLVED FURTHER, that the city council of the city of Duluth approves the utility easement vacation of the following described easement: that part of 27th Avenue East starting at the northwest corner of Lot 16, Block 3, Harrison's Division, thence west 18.0 feet thence south 140.07 feet, thence east 22.4 feet, thence north 140 feet to point of beginning; as shown on Public Document No. 08-1027-10.

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

Resolution 08-0637 was unanimously adopted.
Approved October 27, 2008
DON NESS, Mayor

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RESOLVED, that the Duluth City Council finds that:

(a) A sufficient petition was filed with the city clerk requesting the vacation of streets, avenues and alleys within the Harbor Highlands Traditional Neighborhood District (TND) (FN 08091); and

(b) 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 the city planning commission found that the petitioned streets, avenues and alleys as useless, based on the findings that these streets, avenues and alleys will be replaced by street and utility easements as shown on Public Document No. 08-1027-25 on file in the office of the city clerk which implements the Harbor Highlands TND; and

(c) The planning commission, at its October 14, 2008, regular meeting, did approve, unanimously, vacating the utility easement petitioned for vacation; and

(d) The city council concurs with the planning commission's finding contained in finding (b) above.

RESOLVED FURTHER, that the city council of the city of Duluth approves the vacation of the street and utility easements as shown on Public Document No. 08-1027-25 on file in the office of the city clerk.

RESOLVED FURTHER, the said vacations shall be effective only after the dedication by the owner of the affected property of those streets and utility easements shown on the afore referenced Public Document No. 08-1027-25.

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

Resolution 08-0646 was unanimously adopted.

Approved October 27, 2008

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to accept the donation of street and utility easements within the Harbor Highlands Traditional Neighborhood District, as shown on Public Document No. 08-1027-11 on file in the office of the city clerk, from the Duluth Housing and Redevelopment Authority.

Resolution 08-0647 was unanimously adopted.

Approved October 27, 2008

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city clerk requesting the vacation of a utility easement located in vacated Huron Street in that part of Huron Street, lying westerly of the westerly line of 29th Avenue West, and easterly of the easterly line of 31st Avenue West (FN 08101); and

(b) 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 the city planning commission found that the petitioned avenue is useless, based on the finding that the storm sewer has been rerouted to the alley east of Huron Street; and

(c) The planning commission, at its October 14, 2008, regular meeting, did approve, unanimously, vacating the easement; and

(d) The city council of the city of Duluth approves the vacation of the following, and as more particularly described on Public Document No. 08-1027-12: a utility easement located in vacated Huron Street, lying westerly of the westerly line of 29th Avenue West, and easterly of the easterly line of 31st Avenue West; and

(e) That the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the easement to be vacated.

Resolution 08-0651 was unanimously adopted.

Approved October 27, 2008

DON NESS, Mayor

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RESOLVED, that the city council finds the following:

(a) Centro Properties Group has submitted to the city council a request for C-5 plan approval of Burning Tree Plaza, in accordance with Section 50-140(a) of the City Code, for relocation of driveways and pedestrian access, reduction in the number of parking stalls and reconfiguration of the parking lot, new landscaping/screening and relocation of signs on property located at 5115 Burning Tree Road (Lots 2 and 3, Block 1, and a portion of Outlot A, Burning Tree Division) (FN 08102); and

(b) Said permit application was duly referred to the city planning commission at their October 14, 2008, regular meeting, and the city planning commission has subsequently reported its conditional approval to the city council; and

(c) The approval was made because of the city planning commission's findings that compliance with the appropriate standards of the ordinance will be met through the conditions of approval; and

(d) Approval is granted to Centro Properties Group for amendment of a C-5 plan for Burning Tree Plaza, including relocation of driveways and pedestrian access, reduction in the number of parking stalls and reconfiguration of the parking lot, new landscaping/screening and relocation of signs on property located at 5115 Burning Tree Road, subject to the following conditions:

(1) The project be constructed and maintained in accordance with documents submitted by SAS + Associates titled "Burning Tree Plaza Site Improvements" and as identified as Public Document No. 08-1025-13:

(A) L-1, existing site, dated September 31, 2008;

(B) L-2, proposed site plan, dated September 31, 2008;

(C) L-3, pervious/impervious areas, dated September 31, 2008;

(D) L-4, proposed site plan, dated September 31, 2008; and

(E) L-5, sections, dated September 31, 2008;

(2) That the applicant submitted a revised plan (L-2) showing that the minimum parking setback along Maple Grove and Burning Tree roads is of a width greater than five feet;

(3) That the applicant submitted a revised plan (L-2) showing that the retaining wall along the Burning Tree Driveway will be constructed of the same material (wet cast modular block) that the Minnesota department of transportation is using for its retaining wall (Wall 6) along Burning Tree Road; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

(4) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the land use supervisor without further planning commission or city council action; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50, Article XXIII;

(e) Approval is also granted for the following variances, which are authorized by sections 50-142 and 40-143:

(1) To construct 796 parking stalls rather than the required 931 stalls; and

(2) To reduce the building and parking lot landscape setbacks for Maple Grove and Burning Tree roads as shown on the plans listed in paragraph (d)(1) of this resolution.

Resolution 08-0652 was unanimously adopted.

Approved October 27, 2008

DON NESS, Mayor

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RESOLVED, that 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. 08-1027-14, with St. Louis County to provide supported work services to Minnesota family investment program (MFIP) participants for the period July 1, 2008, through June 30, 2009, in an amount expected to be \$97,228 and not to exceed \$311,684. Said monies under this agreement shall be received from Funding Source 4260 and deposited in Fund 268, Agency 031, Organization 6228 (miscellaneous workforce grant).

Resolution 08-0624 was unanimously adopted.

Approved October 27, 2008

DON NESS, Mayor

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RESOLVED, that the Minnesota department of transportation has improved T.H. 194 (Sixth Avenue East) from 300 feet west of Mesaba Avenue to Second Street at a cost of approximately \$4,966,654.87 (S.P. 6933-73) (194=106) and as part of that project made improvements and adjustments to the sidewalk, storm sewer, sanitary sewer, utilities and traffic signals within the limits of that project which cost \$173,165.93.

FURTHER RESOLVED, that the proper city officials are hereby authorized to remit to the commissioner of transportation the additional sum of \$76,780.94 as the city of Duluth's share of the costs for adjustment and improvement of city-owned facilities as part of Mn/DOT's improvement of T.H. 194 from 300 feet west of Mesaba Avenue to Second Street, to be paid from the following funds in the amounts indicated: Sanitary Sewer Fund 530, Agency 500, Organization 1905, Object 5536: \$67,785.61; Water Utility Fund 510, Agency 500, Organization 1905, Object 5535, \$1,936.21; Permanent Improvement Fund 0411, Agency 035, Object 5530, \$7,059.12.

Resolution 08-0631 was unanimously adopted.

Approved October 27, 2008

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-1027-15, with Northern Shores Townhomes, LLC, and the Duluth North Shore Sanitary District pursuant to which the city will accept waterline easements and Northern Shores Townhomes, LLC, will construct the water mains to be connected to the city's water utility on property at 8411 Congdon Boulevard.

Resolution 08-0643 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Approved October 27, 2008
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-1027-16 with Target Corporation for use of city-controlled right-of-way for required C-5 landscaping and for access control from the Target parking lot onto Mall Drive.

Resolution 08-0648 was unanimously adopted.
Approved October 27, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a first amendment to that certain redevelopment agreement bearing City Contract No. 20702, a copy of which amendment is on file in the office of the city clerk as Public Document No. 08-1027-17, with Allete, Inc., for the acquisition and redevelopment of the Duluth Steam District No. 2 facilities, extending the time for closing provided for therein.

Resolution 08-0649 was unanimously adopted.
Approved October 27, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a second amendment to that certain management, operation and maintenance agreement, a copy of which amendment is on file in the office of the city clerk as Public Document No. 08-1027-18, with Allete, Inc., for the management, operation and maintenance of Duluth Steam District No. 2, extending the term thereof.

Resolution 08-0650 was unanimously adopted.
Approved October 27, 2008
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with KTM Paving, Inc., for the construction of Airport Road Parking Lot (Phase II) in accordance with its low combined bid of \$91,797.34, payable from the Permanent Improvement Fund 411, Agency 035, Object 5530, PI0561TR, Requisition 08-0604 (Project No. OT-0622).

Resolution 08-0653 was unanimously adopted.
Approved October 27, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter in an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-1027-19, with Tenaska Marketing Ventures for professional services relating to asset management of the city's underutilized gas pipeline and gas storage capacity with receipts therefrom to be paid to the gas utility fund.

Resolution 08-0654 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Approved October 27, 2008
DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 08-0644, authorizing a job incentive program agreement with Loy Krathong, Inc., d/b/a Sala Thai Restaurant, in an amount not to exceed \$40,000 was introduced by Councilor Stauber for discussion.

Councilor Krause voiced concern that this incentive program is for a restaurant that does not provide training for a skill that can be used long term, along with a long term living wage.

Resolution 08-0644 was adopted as follows:

RESOLVED, that the proper city officials are authorized to enter into a job incentive program agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 08-1027-22, with Loy Krathong, Inc., d/b/a Sala Thai Restaurant, in an amount not to exceed \$40,000, payable from 2005 Federal Program Fund 262 - community development - Agency 020, Object 5434, Project CD05CD -ECDV-05E1.

Resolution 08-0644 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved October 27, 2008

DON NESS, Mayor

- - -

Resolution 08-0639, authorizing the issuance and providing for the sale of general obligation capital improvement bonds, was introduced by Councilor Gilbert for discussion.

Councilor Fedora stated that the city has increased its bonding level over the last four years by greater than four percent, which means that the city is borrowing money faster than it is paying it back—pushing the debt on to future generations.

Mayor Ness urged the council to support the resolution because it is important to the operation of the city by protecting the integrity of the city's infrastructure and giving the necessary tools and equipment to city employees to do their jobs. He continued by saying that he is interested in looking at a pay-as-you-go model and is willing to work with the council to explore that concept, but this council and a previous council endorsed the projects included in this resolution, so staff proceeded to spend time and money in making the capital improvements and this process needs to proceed as planned. Mayor Ness emphasized that if the council does not pass this resolution, it will put a financial strain on the general fund to find \$1.5 million that has already been spent.

Councilor Stauber expressed concern that the city has borrowed itself so far into debt and that past administrations have approved entitlements such as retiree healthcare that also have to be paid, so the city needs to stop bonding now.

Resolution 08-0639 failed upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner and President Reinert -- 4

Nays: Councilors Fedora, Fosle, Gilbert, Krause and Stauber -- 5

[Editor's Note: Resolution 08-0639 was reconsidered later in this meeting.]

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Resolution 08-0640, authorizing the issuance and providing for the sale of general obligation equipment certificates of indebtedness, was introduced by Councilor Gilbert for discussion.

Councilor Fedora reviewed that the city's level of debt keeps going up and questioned how it will be paid back without leaving it for future generations.

Resolution 08-0640 was adopted as follows:

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

(a) Authorization of certificates. The city council adopted Resolution No. 07-0762 on December 3, 2007, declaring its intent to issue certificates of indebtedness in 2008 in the approximate amount of \$2,539,000 plus costs of issuance and discount. 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 general obligation equipment certificates of indebtedness, Series 2008E, in the approximate amount of \$2,610,000 (the certificates), 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;

(b) Issuance and sale of certificates. 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. 08-1027-21. 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 herein to consider bids for the purchase of the certificates. Due to changes in the municipal bond market, the city administrator, with the advice of the city's financial consultant, may modify the official terms of offering regarding the maturity schedule, the minimum bid and the maximum bid prior to the sale of the certificates;

(c) Competitive sale of certificates. Public Financial Management, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sale for 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 certificates shall be set forth in a subsequent resolution of this city council.

Resolution 08-0640 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Krause and President Reinert -- 5

Nays: Councilors Fedora, Fosle, Gilbert and Stauber -- 4

Approved October 27, 2008

DON NESS, Mayor

- - -

Resolution 08-0636, denying a request to amend 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-2, Two Family Residential, to C-5, Planned Commercial Development, property located at 320 East Myrtle Street (Gordon and Judith Grant), was introduced by Councilor Stauber.

Councilor Stauber moved to table the resolution for consideration with companion Ordinance 08-087 on November 10, which motion was seconded and unanimously carried.

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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. 08-1027-23, with the Housing and Redevelopment Authority of Duluth (HRA), pursuant to which HRA will administer a CDBG program to assist income-eligible homeowners to repair or replace lateral sewer lines that are contributing to sewer overflows into Lake Superior, for a contract in the amount of \$306,000, payable from Fund 261, Agency 020, Object 5434.

Resolution 08-0645 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved October 27, 2008

DON NESS, Mayor

- - -

Resolution 08-0655, authorizing application for a supplemental DEED contamination clean-up grant in the amount of \$348,461 related to the Clyde Park project and committing local match subject to subsequent council acceptance of the grant, was introduced by Councilor Stauber for discussion.

Councilor Stauber stated that he had several questions on this resolution and moved to table the resolution, which motion was seconded and failed upon the following vote:

Yeas: Councilors Krause and Stauber -- 2

Nays: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert and President Reinert -- 7

Councilor Stauber stated that the council needs to know where the money is going for this project before the council approves the expenditure.

Resolution 08-0655 was adopted as follows:

RESOLVED, that the city of Duluth (the city) act as the legal sponsor for the project contained in the contamination cleanup grant program to be submitted on November 1, 2008, and that the city is hereby authorized to apply to the department of employment and economic development (DEED) for the Clyde Park project (the application).

BE IT FURTHER RESOLVED, that the mayor of the city is hereby authorized to apply to DEED for a supplemental grant in the amount of \$348,461 for 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 in the amount of \$116,153 is committed to the project from the Clyde Park, Inc., subject to acceptance of the grant.

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 acceptance thereof shall be subject to further resolution of the council authorizing such acceptance.

Resolution 08-0655 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause and President Reinert -- 8

Nays: Councilor Stauber -- 1

Approved October 27, 2008

DON NESS, Mayor

- - -

Resolution 08-0617, awarding a contract to Nels Nelson & Sons, Inc., for construction of the Lakewalk East extension, Phase II, in the amount of \$608,912.68, was introduced by Councilor Fosle for discussion.

Councilor Krause stated the he cannot support the resolution as the city will be responsible for the maintenance of the Lakewalk for 20 years and the cost that goes with it.

Resolution 08-0617 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Nels Nelson & Sons, Inc., for the construction of the Lakewalk East extension, Phase II, from 36th Avenue East to 47th Avenue East, in the amount of \$608,912.68, payable out of Capital Improvement Fund 0450, Department/Agency 030, Object 5530, CP 2008-OT0818, City Project Number 0580TR, S.P. 118-090-13, Federal Project Number TEAX 6908 (147).

Resolution 08-0617 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved October 27, 2008

DON NESS, Mayor

- - -

Resolution 08-0656, amending Resolution 07-0723 adopting license, permit and fee charges for 2008; creating a point of sale inspection fee of \$200, was introduced for discussion.

Councilor Stauber stated the fee is too high for the amount of time spent on the inspection and moved to table the resolution for information from the administration, 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:

INTRODUCED BY COUNCILOR STAUBER

08-087 - 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-2, TWO FAMILY RESIDENTIAL, TO C-5, PLANNED COMMERCIAL DEVELOPMENT, PROPERTY LOCATED AT 320 EAST MYRTLE STREET (GORDON AND JUDITH GRANT).

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INTRODUCED BY COUNCILOR STAUBER

08-088 - AN ORDINANCE AUTHORIZING RECONVEYANCE OF PROPERTY IN LESTER PARK TO THE STATE OF MINNESOTA.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR GARDNER

08-083 (9941) - AN ORDINANCE AMENDING SECTION 1-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED; ADDING A DEFINITION FOR THE TERM "BUILDING OFFICIAL" AND AMENDING CHAPTER 10 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW SECTION 10-1.1 PROVIDING FOR A LIMITED DEFINITION OF THE TERM "BUILDING OFFICIAL."

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

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BY COUNCILOR STAUBER

08-086 - AN ORDINANCE PERTAINING TO ALLOCATION OF INCREASED PILOT FUNDS, AMENDING SECTION 48-28 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Fosle moved to amend the ordinance so that Section 48-28 would read as follows:

"(a) Except as provided for in subsections (b) and (c) below, all money collected or recovered under the provisions of this Chapter shall be paid into the water and gas fund for the benefit and use of the department or by resolution of the city council for the benefit and use of the city;

(b) For the purposes of this Section, the following terms shall have the meanings hereinafter ascribed to them:

(1) PILOT shall mean those funds authorized to be transferred out of the gas division account in any year pursuant to the authority of Laws, 1951, Chapter 507, Section 1, as amended by Laws 1993, Chapter 148, Section 1;

(2) Base PILOT shall mean the PILOT from the calendar year preceding the year in which the current PILOT is to be determined. For the year 2008 only, the base PILOT shall be deemed to have been \$4,000,000;

(3) Current PILOT shall mean the PILOT for the year then current;

(4) Incremental PILOT shall mean the difference between the base PILOT and the current PILOT in any year;

(c) Nothing to the contrary in the foregoing, the incremental PILOT shall be deposited and used as follows:

(1) The amount of the incremental PILOT, up to an amount equal to the base PILOT times the increase from the preceding year in the consumer price index for all urban consumers (CPI-U), for U.S. city average (1982-84 = 100) issued by the bureau of labor statistics of the U.S. department of labor or its successor index, shall be deposited in the general fund of the city;

(2) The remaining amount of the incremental PILOT in excess of the amount determined in sub-subsection (1) above, if any, shall be deposited in the other post employment benefits-retiree healthcare fund,"

which motion was seconded and adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Krause and President Reinert -- 6

Nays: Councilors Gardner, Gilbert and Stauber -- 3

Councilor Cuneo moved to table the amended ordinance, which motion was seconded and approved upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Krause, Stauber and President Reinert -- 7

Nays: Councilors Fedora and Fosle -- 2

- - -

BY COUNCILOR FEDORA

08-085 - AN ORDINANCE AMENDING SECTION 29A-27, AND REPEALING SECTION 29A-32.1 OF CHAPTER 29A OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO THE RENTAL LICENSING 300 FOOT RULE.

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

Candy Hart, Kevin Lomen, Peter J. Mattson, Peter S. Mattson and Susan Forseth urged the council to repeal the 300 foot ordinance for the following reasons: with the housing market stagnate, it is hard to sell a house and the 300 foot rule prevents houses from being rented; neighborhoods change and should not be singled out in the rental ordinance; this ordinance only serves the campus neighborhoods and not the city as a whole; this ordinance does not welcome the students into the city; it does not address the livability issues that it was supposed to contain; the ordinance has unintended consequences; it would impact the market negatively and there are current laws in place for homeowners who do not keep their property up that should be enforced.

Gayle Ankarlo, Susan Schumacher and Dave Flemming stated that the ordinance should not be repealed for the following reasons: if the ordinance is repealed, the value of the homes that are zoned R-1-b residential would go down, a lot of city council time and work has been spent studying this issue; there are neighborhoods who think this rental ordinance is working; the ordinance provides a stable environment where people know they can invest in their house and the property value will not go down; the ordinance has an appeal process and the college enrollment has grown, but the schools are not building housing to keep up with the students.

Councilor Fedora stated that the current 300 foot rule is preventing property owners from renting their property to cover their mortgage payments and taxes until the housing market and economy improves and they can sell their homes. He reviewed that the council has already passed the social host ordinance which targets party houses, a three strikes rule which targets landlords and tenants and the front yard parking ordinance. Councilor Fedora continued by saying that the building appeal board is only granting an appeal to homeowners if there is a severe financial hardship versus moderate financial hardship.

Councilor Fedora moved passage of the ordinance and the same failed upon the following vote (Public Document No. 08-1027-24):

Yeas: Councilors Fedora and Fosle -- 2

Nays: Councilors Anderson, Cuneo, Gardner, Gilbert, Krause, Stauber and President Reinert -- 7

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INTRODUCED BY COUNCILOR ANDERSON

08-084 (9942) - AN ORDINANCE ALIENATING CERTAIN PROPERTY IN THE RAMSEY NEIGHBORHOOD OF DULUTH AND AUTHORIZING SALE AND CONVEYANCE OF SAME TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY FOR \$188,362.

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

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RESOLUTION RECONSIDERED

Councilor Fosle stated that after considering the mayor's statements about the budget and the bonding resolution, he would like to reconsider his vote on Resolution 08-0639, authorizing the issuance and providing for the sale of general obligation capital improvement bonds. He continued by saying that he feels that the mayor has heard the council's message on bonding and is concerned for how the city would be able to make up the \$1.5 million in the budget this late in the year.

Councilor Fosle moved to reconsider the resolution, which was seconded and passed upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner and President Reinert -- 5

Nays: Councilors Fedora, Gilbert, Krause and Stauber -- 4

Councilor Fedora expressed his frustration on the bonding process that allows the city to spend money on projects before the council approves the bonding for the project.

Mayor Ness replied that city staff is operating well within the rules that have been in place for many years. He reviewed that the capital improvement plan is approved by the council when the administration brings forth projects early in the year, the council hears the plan and then approves the resolution designating the projects, expenditures are made during the year and bids are let to get the specific expense needed for the bonding and then the council approves the bonding.

Resolution 08-0639 was adopted as follows:

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

(a) Authorization of bonds. The city council adopted Resolution No. 08-0055 on January 28, 2008, declaring its intent to issue capital improvement bonds in 2008 in an amount not to exceed \$1,600,000. 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 general obligation capital improvement bonds, Series 2008D, in the approximate amount of \$1,600,000 (the bonds), 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;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 08-1027-20. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds. Due to changes in the municipal bond market, the city administrator, with the advice of the city's financial consultant, may modify the official terms of offering regarding the maturity schedule, the minimum bid and the maximum bid prior to the sale 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 sale for 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 a subsequent resolution of this city council.

Resolution 08-0639 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert and President Reinert -- 6

Nays: Councilors Fedora, Krause and Stauber -- 3

Approved October 27, 2008

DON NESS, Mayor

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The meeting was adjourned at 9:40 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9941

AN ORDINANCE AMENDING SECTION 1-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED; ADDING A DEFINITION FOR THE TERM "BUILDING OFFICIAL" AND AMENDING CHAPTER 10 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW SECTION 10-1.1 PROVIDING FOR A LIMITED DEFINITION OF THE TERM "BUILDING OFFICIAL."

The city of Duluth does ordain:

Section 1. That Chapter 1, Section 2, of the Duluth City Code, as amended, is amended to read as follows:

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code, and of all ordinances of the city, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the city council or context clearly requires otherwise:

Building official. Unless otherwise provided in this Code, whenever the words "building official" are used in this Code, they shall mean the person, or the person's designee, having supervisory authority of the administrative division of the city responsible for administering the specified powers or duties.

City. The words "the city" or "this city" shall be construed as if followed by the words "of Duluth."

Code. The words "the code" or "this code" shall mean "The Legislative Code of the city of Duluth, Minnesota, 1959."

Computation of time. The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a Sunday or a holiday and then it is also excluded.

Council. Whenever the word "council" is used in this Code, it shall be construed to mean the city council of the city of Duluth.

County. The words "the county" or "this county" shall mean the county of St. Louis.

Day. A day is the period of time between any midnight and the midnight following.

Daytime, nighttime. "Daytime" is the period of time between sunrise and sunset. "Nighttime" is the period of time between sunset and sunrise.

Gender. The masculine gender includes the feminine and neuter.

In the city. The words "in the city" shall mean and include all territory over which the city now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Month. The word "month" shall mean a calendar month.

Number. The singular number includes the plural, and the plural the singular.

Oath. "Oath" includes an affirmation.

Officers, departments, etc. Officers, departments, boards, commissions and employees referred to in this Code shall mean officers, departments, boards, commissions and employees of the city of Duluth, unless the context clearly indicates otherwise.

Official time. Whenever certain hours are named in this Code, they shall mean Central Standard Time or Daylight Saving Time, as may be in current use in the city.

Or, and. "Or" may be read "and," and "and" may be read "or," if the sense requires it.

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.

Person. "Person" includes bodies politic and corporate, trustees, receivers, assignees, personal representatives and partnerships and other unincorporated associations.

Personal property. Includes every species of property, except real property, as defined in this Section.

Preceding, following. The words "preceding" and "following" mean next before and next after, respectively.

Process. Includes a writ or summons issued in the course of judicial proceedings of either a civil or criminal nature.

Property. The word "property" shall include real and personal property.

Real property. Shall include lands, tenements and hereditaments.

Shall, may. "Shall" is mandatory and "may" is permissive.

Signature or subscription by mark. The signature of a person, when required by law, shall be in the handwriting of the person or, if he is unable to write, he may make his mark or his name may be written by pencil or by pen and ink, but shall be by pen and ink when so required by law by some person at his request and in his presence.

State. The words "the state" or "this state" shall be construed to mean the state of Minnesota.

Tenant or occupant. The words "tenant" or "occupant," applied to a building or land, shall include any person holding a written or an oral lease of, or who occupies the whole or a part of such building or land, either alone or with others.

Tenses. The present tense includes the past and future tenses, and the future includes the present.

Week. A week consists of seven consecutive days.

Writing. Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this Code, it shall be made in writing in the English language, unless it is expressly provided otherwise.

Year. The word "year" shall mean a calendar year, except where otherwise provided.

Section 2. That Chapter 10 of the Duluth City Code, as amended, is amended to add a new Section 10-1.1 to read as follows:

Sec. 10-1.1. Definition--building official.

Whenever the words "building official" are used in this Chapter, they shall mean a person certified by the state to perform the duties of a building official as provided in Minnesota Statutes Sec.16B.65 or its successor, as it may be amended from time to time, and authorized to perform such duties on behalf of the city.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: December 7, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

Passed October 27, 2008
Approved October 27, 2008
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9942

AN ORDINANCE ALIENATING CERTAIN PROPERTY IN THE RAMSEY NEIGHBORHOOD OF DULUTH AND AUTHORIZING SALE AND CONVEYANCE OF SAME TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY FOR \$188,362.

The city of Duluth does ordain:

Section 1. That the city hereby designates the property described in Section 2 below as being surplus to the city's future needs and hereby declares its intention to alienate its interest in same.

Section 2. That, subject to the acceptance of the same by the Duluth economic development authority (DEDA), 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 DEDA without bids for the total sum of \$188,362, payable to the General Fund 0100-700-1407-4640 and to execute all documents necessary with regard to said conveyance:

Lots 1 through 8, Block 168, and Lots 1 through 10, Block 169, West Duluth Seventh Division; and

All those portions of the northeast quarter of the southwest quarter (NE1/4 SW1/4)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

and the northwest quarter of the southeast quarter (NW1/4 SE1/4) of Section 7, Township 49 North, Range 14 West, of the Fourth Principal Meridian which lie between two lines parallel with and distant 50 feet northwesterly and 100 feet southeasterly, measured at right angles from the hereinafter described Line A, and between the east line of 54th Avenue West and the north line of said northwest quarter of the southeast quarter (NW1/4 SE1/4) of said Section 7; except that portion of said property lying southwest of the hereinafter described Line B.

Line A: Commencing at a stone monument in the intersection of Grand Avenue West and 59th Avenue West; thence south along the centerline of said 59th Avenue West on an assumed bearing of south 0° 00' 00" east, a distance of 381.1 feet to the point of beginning of Line A, thence north 45° 05' east a distance of 5,000 feet and there terminating.

Line B: Beginning at the southwest corner of Block 154, West Duluth Fifth Division, thence northeasterly along the southeasterly boundary of said West Duluth Fifth Division a distance of 445.71 feet to the point of beginning; thence southeasterly deflecting 90° 00' 00" to the right a distance of 200.00 feet to a point on the northwest boundary of Block 2, West Duluth First Division and there terminating.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: December 7, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 27, 2008
Approved October 27, 2008
DON NESS, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 10, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-1110-01 Duluth Teachers Credit Union, et al. (three signatures), petition to vacate the alleyways and relocating the utilities in Blocks 1, 2 and 11, Meyers and Whipples Addition. -- Assessor

08-1110-02 Hurlbut-Zeppa Charitable Trust AR, by Roy J. Christensen, attorney, petition to vacate Lot 44 and the west half of Lot 46, Block 1, Central Division of Duluth. -- Assessor

08-1110-03 Independent School District No. 709 petition to vacate West Fourth Street from North 44th Avenue West to North 45th Avenue West. -- Assessor

08-1110-04 Lakewalk Townhomes, LLC, by William Burns, attorney, petition to vacate all that part lying within the southerly 1,000 feet of the utility easement which is bounded on the west by the northerly extension of the west line of Lot 5, Block E, Endion Division of Duluth, and bounded on the east by the southerly extension of the east line of Lot 12, Block 2, said Endion Division of Duluth. -- Assessor

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REPORTS FROM OTHER OFFICERS

08-1110-05 Assessor amended assessment roll for confirmation of the delinquent solid waste collection expenses during the period of March 1, 2007, to June 1, 2008, for which the licensed collector has not been reimbursed (08-0684R). -- Received

08-1110-06 Clerk application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from Lake Superior Marine Museum Association on November 7, 2009. -- Received

08-1110-07 Parks and recreation department director Lake Superior zoological society: (a) Minutes of September 24, 2008, meeting; (b) October 28, 2008, executive report. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

08-1110-08 Community development committee minutes of: (a) June 24; (b) September 23; (c) October 7; (d) October 21, 2008, meetings. -- Received

08-1110-09 Duluth legacy endowment fund advisory board minutes of: (a) July 16; (b) September 23; (c) October 10, 2008, meetings. -- Received

08-1110-10 Duluth transit authority: (a) Income statement for July 2008; (b) Minutes of: (1) August 13; (2) August 27, 2008, meetings. -- Received

08-1110-11 Entertainment and convention center authority minutes of: (a) October 27; (b) October 28, 2008, meetings. -- Received

08-1110-12 Library board minutes of September 23, 2008, meeting. -- Received

08-1110-13 Parking commission minutes of October 14, 2008, meeting. -- Received

08-1110-14 Spirit Mountain recreation area authority minutes of September 18, 2008. --
Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Debra Taylor commented on her experiences from the past general election day activities, noting that she was extremely impressed with the election judges knowledge of the rules, security with the absentee ballots, helpfulness and friendliness.

- - -

Jerry Schlafer felt that the police chief is doing a good job, but crime is still out of control. He noted that: in his neighborhood crime is up 200 percent; one of his neighbors was a repeated crime victim, which caused them to move and how he woke up once and found a burglar in his house.

- - -

RESOLUTIONS TABLED

Councilor Stauber moved to remove Resolution 08-0636, denying a request to amend 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-2, Two Family Residential, to C-5, Planned Commercial Development, property located at 320 East Myrtle Street (Gordon and Judith Grant), from the table. which motion was seconded and unanimously carried.

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INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR STAUBER

08-087 (9943) - 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-2, TWO FAMILY RESIDENTIAL, TO C-5, PLANNED COMMERCIAL DEVELOPMENT, PROPERTY LOCATED AT 320 EAST MYRTLE STREET (GORDON AND JUDITH GRANT).

Councilor Stauber moved to suspend the rules to consider the ordinance at this time, which motion was seconded and unanimously carried.

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Resolution 08-0636 failed unanimously (Public Document No. 08-1110-15).

- - -

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

- - -

Councilor Fosle moved to remove Resolution 08-0656, amending Resolution 07-0723 adopting license, permit and fee charges for 2008; creating a point of sale inspection fee of \$200, 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.

Andy Peterson felt that the fee of \$200 for a 30 second inspection is outrageous and over

the top.

Councilor Stauber noted that he would be proposing an amendment, because he does not support this particular fee and that legally fees must be fair and reasonable and proportionate to the amount of services provided.

Councilors Krause and Cuneo supported the resolution for reasons of: in the private service sector, travel costs vary; in some householders it is easy to get to the inspection area and in others it is not and most citizens realize that this is a measure that needs to be taken to protect Lake Superior.

Mayor Ness noted that many individuals in the past benefitted from adding a sump pump to their home at the expense of the city. He noted that now there is an attempt to make it equitable to all, at the time of the sale of the home, where they pay for the inspection and are eligible for the program.

President Reinert moved to retable the resolution to receive information on the cost basis for this fee, which motion was seconded and carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause and President Reinert -- 8

Nays: Councilor Stauber -- 1

- - -

Councilor Cuneo moved to remove Resolution 08-0612, amending Resolution 05-0805 by deleting 30th Avenue West and inserting 21st Avenue West, from the table, which motion was seconded and unanimously carried.

Councilor Krause opposed the resolution because there has not been an agreement with city staff and the businesses in this area.

Chief Administrative Officer Lisa Potswald noted that at the agenda session, Cindy Voigt, city engineer, stated that she has met with the businesses in the area, even though they may disagree.

Resolution 08-0612 was adopted as follows:

RESOLVED, that Resolution 05-0805 be amended by deleting the words "30th Avenue West" and replacing them with the words "21st Avenue West."

Resolution 08-0612 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Stauber and President Reinert -- 7

Nays: Councilor Krause -- 1

Abstention: Councilor Gilbert -- 1

Approved November 10, 2008

DON NESS, 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 Reinert moved passage of the consent agenda, which motion was seconded and unanimously carried.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 08-1110-05 which is levied to defray in full the expense of solid waste collecting during the period of March 1, 2007, to June 1, 2008, for which the licensed collector has not been reimbursed as provided for in Chapter 24 of the Duluth City Code, is hereby confirmed.

Resolution 08-0684 was unanimously adopted.

Approved November 10, 2008

DON NESS, Mayor

- - -

WHEREAS, on November 4, 2008, there was held in the city of Duluth, pursuant to Minnesota Statutes and the provisions of Section 51 of the Duluth City Charter, a special municipal election for the purpose of submitting to the voters the following referendum questions:

NONBINDING PROPOSITION - Precincts 1-4

Should the state statute which prohibits the issuance of licenses for the sale of intoxicating liquor in the Lakeside and Lester Park neighborhoods be repealed?

PROPOSED CONFLICT OF INTEREST CHARTER AMENDMENT

Should Section 30 of the 1912 Home Rule Charter of the city of Duluth, as amended, be amended to allow a citizen to request that the Council appoint special prosecutor to prosecute violations of the Charter's Conflict of Interest provisions when the City Attorney has determined that there is no probable cause to do so and to require that the Council to decide whether or not to do so within 60 days of receipt of such request?; and

WHEREAS, the judges of the election precincts of the city have made their returns of said election; the city council, acting as a canvassing board, has duly canvassed said returns (Public Document No. 08-1110-26) and ascertained the number of ballots cast at said election and thereby declared that at said election, said votes were cast in the following manner:

(a) That for the nonbinding proposition (Precincts 1-4 only) there were 2,857 "yes" votes and 2,858 "no" votes;

(b) That for the proposed conflict of interest Charter amendment there were 28,773 "yes" votes and 16,896 "no" votes;

NOW, THEREFORE, BE IT RESOLVED, that the nonbinding proposition received a majority of negative responses and is hereby declared to be disapproved by the electors voting upon such question.

RESOLVED FURTHER, that the proposed conflict of interest Charter amendment received a majority of positive responses and is hereby declared to be approved by the electors voting upon such question and is hereby declared to be operative and in full force, pursuant to the provisions of Section 51 of the Duluth City Charter.

Resolution 08-0657 was unanimously adopted.

Approved November 10, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Johnson-Wilson Constructors, Inc., for masonry repairs and modernization at Fire Station #1 in accordance with its low specification bid of \$152,253, payable out of Capital Fund 450, Depart-

ment/Agency 030, Object 5520, CP 2008 OT-0805.
Resolution 08-0673 was unanimously adopted.
Approved November 10, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to the amended and restated lease agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 08-1110-16, with the Canal Company for the lease of the pilot house of the vessel *George Hindman* in Canal Park extending the lease for a period of five years and as further specified in the amendment.

Resolution 08-0676 was unanimously adopted.
Approved November 10, 2008
DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling 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 08-0680 was unanimously adopted.
Approved November 10, 2008
DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2009, subject to departmental approvals and the payment of sales and property taxes:

Thai Mia, Inc. (Thai Krathong), 308 South Lake Avenue, with Robert Benkoski, 59 percent stockholder, and Duangrudee Benkoski, 49 percent stockholder.

Resolution 08-0682 was unanimously adopted.
Approved November 10, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a public infrastructure grant from the Minnesota department of employment and economic development (DEED) in the amount of \$250,000 and to execute a grant agreement, on file with the clerk as Public Document No. 08-1110-17, in connection therewith. Such funds shall be deposited into City Fund 255.

FURTHER RESOLVED, that the required local match to the granted funds, estimated at a total value of \$2,612,066, shall be provided by funds committed by the federal economic development administration, St. Louis County, Minnesota, department of transportation and a private developer.

BE IT FURTHER RESOLVED, that the city certifies that it will comply with all applicable laws and regulations as stated in all contract agreements it accepts.

Resolution 08-0690 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Approved November 10, 2008
DON NESS, Mayor

- - -

RESOLVED, that proper city officials are hereby authorized to amend Contract No. 20675, in substantially the form of the amendment on file with the city clerk as Public Document No. 08-1110-18, with St. Louis County to provide food support employment and training (FSET) program services at costs expected to be \$35,305 and not to exceed \$70,610 for the period October 1, 2008, through September 30, 2009. Said monies under this agreement shall be received from Funding Source 4260 (St. Louis County) and deposited in Fund 268, Agency 031, Organization 6237 (FSET).

Resolution 08-0660 was unanimously adopted.
Approved November 10, 2008
DON NESS, Mayor

- - -

RESOLVED, that the site for the second Lakeside interceptor storage basin has contaminated soil that needs to be addressed in conjunction with the construction of the SSO basin.

To receive the EPA brownfields cleanup grant, the city must submit a grant application by November 14, 2008.

The city of Duluth is authorized to apply to the EPA for a brownfields cleanup grant to help fund the Lakeside interceptor sanitary sewer overflow (SSO) basin - Basin No. 2, as described in the grant application. 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 facility for its design life.

The city of Duluth estimates the grant amount to be \$200,000 or the as-bid costs of the project.

FURTHER RESOLVED, that the city hereby expresses its official interest to use proceeds of this grant to reimburse engineering and construction expenditures made prior to the issuance of its general obligation bond.

Resolution 08-0661 was unanimously adopted.
Approved November 10, 2008
DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth hereby states its intent to enter into an agreement (Public Document No. 08-1110-27) with the Duluth transit authority (DTA) to reimburse the DTA for having performed on behalf of the city of Duluth certain professional design services related to the Skyline Parkway improvements, Joshua Avenue project study and citywide intermodal connections as part of the DTA's multi-modal Downtown transportation terminal study, in an amount not to exceed \$50,000, subject to final approval of a contract therefor by resolution.

Resolution 08-0664 was unanimously adopted.
Approved November 10, 2008
DON NESS, Mayor

- - -

RESOLVED, that Resolution 06-0448, an agreement with the Minnesota department of transportation, the city of Hermantown and St. Louis County be amended to increase the contract amount by \$25,978.04 for a new total of \$263,778.04, a copy of which is on file in the office of the city clerk as Public Document No. 08-1110-19. A breakdown of the costs associated with this

amendment for the reconstruction of Airport Road are as follows: \$98,015.52 for the city's non-federal portion of the construction costs, \$102,328 for the design engineering costs by a consulting firm, and \$63,434.52 for the construction engineering costs for St. Louis County. Said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Contract No. 20153, payable out of Permanent Improvement Fund 0411 Department/Agency 035, Object 5530, and would be reimbursed from the city's municipal state aid construction account, Project PI0526TR.

Resolution 08-0666 was unanimously adopted.
Approved November 10, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to amend Resolution 06-0134 and City Contract C-20060 with MSA Professional Services, Inc., for professional engineering services related to the water, wastewater and gas utility SCADA (supervisory control and data acquisition) system; this amendment increases the contact by \$44,392.59, for a new contract total of \$103,222.59, payable as follows:

- (a) \$2,689.72 from the Water Fund 510, Agency 500, Organization 1905, Object 5535;
- (b) \$2,689.72 from the Gas Fund 520, Agency 500, Organization 1905, Object 5535;
- (c) \$39,013.15 from the Sewer Fund 530, Agency 500, Organization 1905, Object 5535.

Resolution 08-0667 was unanimously adopted.
Approved November 10, 2008
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Bobcat of Duluth for the purchase and delivery of a Bobcat 5600 Turbo Toolcat with 56 HP diesel engine and options for the maintenance operations division in accordance with state of Minnesota Contract #439916, Release #T-652(5) specifications and pricing in the amount of \$47,339.57 plus \$3,077.07 sales tax for a total amount of \$50,416.64, terms net 30, FOB destination, payable from Parking Fund 505, Department/Agency 015, Organization 1480, Object 5580.

Resolution 08-0670 was unanimously adopted.
Approved November 10, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into a contract with LHB, Inc., for engineering services for the replacement of Chester Creek culvert crossing on MacFarlane Road, in accordance with its proposal dated July 22, 2008, in an estimated amount not to exceed \$17,915, payable from Stormwater Fund 535, Department 500, Organization 1905, Object 5536, City Project No. 0711ST.

Resolution 08-0675 was unanimously adopted.
Approved November 10, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-1110-20, with the state of Minnesota commissioner of public safety fire marshal division to perform Fire Code

compliance inspection of public schools in the city with inspection fees related thereto to be paid to Fund 100, Agency 100, Organization 1501, Revenue 4154.

Resolution 08-0658 was unanimously adopted.
Approved November 10, 2008
DON NESS, Mayor

- - -

CITY PROPOSAL:

RESOLVED, that the proper city officers are authorized to execute a joint powers agreement creating the Northeast Minnesota regional radio board, said agreement to be substantially in the form of Public Document No. 08-1110-21 on file in the office of the city clerk.

Resolution 08-0662 was unanimously adopted.
Approved November 10, 2008
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Car Truck City for the tax-exempt purchase and delivery of two 2009 Chevrolet Impalas (Police Squad Model 9C1) for use by the police department in accordance with state of Minnesota Contract #439935, Release #A-215(5), specifications and pricing in the amount of \$41,368, terms net 30, FOB destination, payable from the Capital Equipment Fund 250, Agency 015, Organization 2008, Object 5580, Project No. CE250-V803.

Resolution 08-0669 was unanimously adopted.
Approved November 10, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized to enter into an agreement with the Park Point Community Club, authorizing a grant to the club in an amount not to exceed \$10,000 for the purposes of improving the 12th Street beach, said agreement to be substantially in the form of Public Document No. 08-1110-22, on file in the office of the city clerk; funds to be paid from Fund 100, Agency 700, Organization 1420, Object 5530.

Resolution 08-0659 was unanimously adopted.
Approved November 10, 2008
DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 08-0679, authorizing execution of an agreement with Clarion Associates of Colorado, LLC, for professional services relating to the development of a unified development code in an amount not to exceed \$260,000, was introduced by Councilor Stauber for discussion.

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

Heather Rand spoke on behalf of the zoning advisory committee (ZAC), which was established by the mayor and is comprised of six planning commissioners, one city councilor and eight citizens. She spoke in support of the resolution and all the input that will be put into developing the new zoning code.

Resolution 08-0679 was adopted as follows:

RESOLVED, that:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

(a) The proper city officers are hereby authorized to execute an agreement with Clarion Associates of Colorado, LLC, for professional services relating to the development of a unified development code for the city of Duluth, payment not to exceed \$260,000, payable from Fund 100, Agency 020, Organization 1202, Object 5310;

(b) The city council, at its June 26, 2006, meeting, adopted the comprehensive land use plan;

(c) The city desires to implement the comprehensive land use plan and put forth a request for proposals for professional services to assist in this process;

(d) The city received proposals from four consultants all of whom were interviewed by members of the citizens advisory committee for the development of the unified development code;

(e) The citizens advisory committee recommended that the city hire Clarion Associates of Colorado, LLC, due to their extensive experience developing unified development codes as well as their expertise with form based codes, sustainable design and land use law;

(f) Clarion Associates of Colorado, LLC, 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 a unified development code as stated in a contract described in Public Document No. 08-1110-23;

(g) Wherein, upon the completion of the unified development code and its approval by city council, the city will update the zoning map.

Resolution 08-0679 was unanimously adopted.

Approved November 10, 2008

DON NESS, Mayor

- - -

BE IT RESOLVED, that the proper city officials are authorized to execute and implement an amendment to the collective bargaining agreement with the city of Duluth Supervisory Association, said agreement to be substantially in the form of Public Document No. 08-1110-24, on file in the office of the city clerk.

Resolution 08-0697 was unanimously adopted.

Approved November 10, 2008

DON NESS, Mayor

- - -

Resolution 08-0672, authorizing the proper city officials to enter into a contract with Donald Holm Construction, Inc., for interior remodeling and repair of living quarters at Fire Station #10 in the amount of \$151,946, was introduced by Councilor Krause for discussion.

Councilor Stauber expressed his concerns over the number of layoffs and reduced services, stating that it is inconsistent to spend this much on remodeling.

Resolution 08-0672 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Donald Holm Construction, Inc., for interior remodeling and repair of living quarters at Fire Station #10 in accordance with its low specification bid of \$151,946, payable out of Capital Fund 450, Department/Agency 030, Object 5520, CP 2008 OT-0807.

Resolution 08-0672 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause and President Reinert -- 8

Nays: Councilor Stauber -- 1
Approved November 10, 2008
DON NESS, Mayor

- - -

Resolution 08-0663, accepting transfer of funds from DEDA and authorizing amended and restated agreement with Greysolon Apartments Limited Partnership for the Skywalk from the First Street Medical District Parking Ramp to the Greysolon Apartments, as introduced by Councilor Stauber for discussion.

Councilor Krause opposed the resolution because he felt that state aid dollars could be used for other purposes and that skywalks are not a prudent expenditure at this time.

Resolution 08-0663 was adopted as follows:

RESOLVED, that the city does hereby accept the transfer of up to \$1,636,149 from the Duluth economic development authority to reimburse the city for costs of constructing the skywalk from the First Street Medical District parking ramp to the Greysolon Apartments, said sum to be deposited in Fund 450, Agency 030, Revenue Source 4730-80.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter in an "amended and restated pedestrian passageway agreement pertaining to the Greysolon Apartments," a copy of which is on file in the office of the city clerk as Public Document No. 08-1110-25, with Greysolon Apartments Limited Partnership for the construction and operation of the skywalk from the First Street Medical District parking ramp to the Greysolon Apartments in the amount of \$1,636,149, said sum to be payable from DEDA Fund 865, Agency 860, Organization 8604, Object 5700-40.

Resolution 08-0663 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1
Approved November 10, 2008
DON NESS, Mayor

- - -

Resolution 08-0689, by Councilor Stauber, including changes to charitable gambling laws in Minnesota to the legislative agenda for 2009, was introduced for discussion.

Councilors Krause opposed the resolution for reasons of: other communities should also be supporting this change and this change would increase gambling at the same time the city supports gambling prevention.

Resolution 08-0689 was adopted as follows:

BY COUNCILOR STAUBER:

WHEREAS, many local charitable gambling organizations have seen significant losses in revenues and have been unable to fund charitable causes as they have in the past that are so important to many people in our community; and

WHEREAS, these organizations believe they could be more profitable if the state would allow other lawful gambling options for their patrons.

NOW, THEREFORE, BE IT RESOLVED, that the city council requests that the proper city officials add to the legislative agenda a request that the city of Duluth requests the Minnesota state legislature, local legislative delegates and our professional lobbying team, amend the rules and statutes governing charitable gambling to allow additional games or practices.

Resolution 08-0689 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert and Stauber -- 6

Nays: Councilors Fedora, Krause and President Reinert -- 3

Approved November 10, 2008

DON NESS, Mayor

- - -

Resolution 08-0688, by Councilor Fedora, including changes to the Minnesota liquor laws to the city's legislative agenda for 2009, was introduced for discussion.

Councilor Krause expressed opposition to the resolution because liquor laws are complex and changes should come from a number of communities and with all the needs the city has, the council should be concentrating on more highly successful areas.

Resolution 08-0688 was adopted as follows:

BY COUNCILOR FEDORA:

WHEREAS, certain liquor establishments within the city of Duluth have had ongoing problems with public disturbances; and

WHEREAS, the city of Duluth is limited by state law in issuing liquor license renewals of less than one year; and

WHEREAS, the inability to have liquor license renewal terms of less than one year limits the city's ability to implement corrective action plans for certain liquor establishments.

NOW, THEREFORE, BE IT RESOLVED, that the city council requests that proper city officials add to the legislative agenda a request that the city of Duluth be allowed to issue on and off sale liquor licenses for a period of less than one year as part of a corrective action plan.

Resolution 08-0688 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Stauber and President Reinert -- 6

Nays: Councilors Gardner, Gilbert and Krause -- 3

Approved November 10, 2008

DON NESS, Mayor

- - -

Resolution 08-0685, setting legislative priorities for the 2009 legislative session, was introduced by President Reinert for discussion.

Councilor Krause moved to amend subsection (e) in the second paragraph of the resolution read as follows:

“(e) Support for legislation to give the Duluth City Council the authority to approve the Duluth Seaway Port authority levy,”

which motion was seconded and unanimously carried.

Councilor Stauber moved to amend subsection (a) in the second paragraph of the resolution to delete the phrase “construction of sanitary sewer overflow storage facilities” and insert the phrase “elimination of sanitary sewer overflows,”

which motion was seconded and discussed.

Councilor Stauber commented at length about: the additional charges put on sewer bills to create the treatment tanks and treat rain water; the high costs associated with construction and maintenance of sanitary sewer overflow tanks; not knowing what is in the environmental protection agency edict; the problem should be fixed at the source and that this amendment, if funded, would give the city more flexibility in addressing the problem.

Councilors and the mayor discussed at length the aspects of funding and solutions to this

issue.

Councilor Stauber's amendment failed as follows:

Yeas: Councilors Fedora and Stauber -- 2

Nays: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause and President Reinert -- 7

Resolution 08-0685, as amended, was adopted as follows:

The city council finds as follows:

(a) The city administration and council wish to establish a clear set of priorities with respect to legislative initiatives which the city supports in the 2009 legislative session; and

(b) The city administration and council have devoted meeting time and discussion to the city legislative priorities; and

(c) The city administration and council choose to express support for legislative initiatives which are of vital interest to the community; and

(d) The city administration and council have established priorities among the legislative issues designating five items city priorities and designating eight items as initiatives which are to receive city support.

NOW, THEREFORE, BE IT RESOLVED, that the city staff and elected officials will take the lead role in advancing the following legislative initiatives as city priorities for the 2009 legislative session:

(a) The city requests an allocation of state bond proceeds in the amount of \$3,300,000 for the construction of sanitary sewer overflow storage facilities in order to ensure that the city remains in compliance with federal environmental protection agency requirements with respect to non-discharge of wastewater into Lake Superior; and

(b) Support legislation to capture the city portion of property tax revenue from decertified tax increment financing districts; and

(c) Support for the restoration of funding for police and fire amortization aid; and

(d) Support increasing funding for the local government aid formula; and

(e) Support for legislation to give the Duluth City Council the authority to approve the Duluth Seaway Port authority levy.

FURTHER RESOLVED, that the city staff and elected officials expressed city support for the following legislative proposals during the 2009 session:

(a) Support for the \$4,900,000 allocation of state bond proceeds for the first phase of development of new terminal facilities at the Duluth International Airport; and

(b) Support for the \$2,400,000 allocation of state bond proceeds for maintenance and capital improvements to attain A.Z.A. accreditation at the Lake Superior Zoo; and

(c) Support for legislation needed to implement the infrastructure improvements provided in the Spirit Mountain recreation area authority master plan; and

(d) The allocation of state bond proceeds for the port development assistance program; and

(e) The allocation of state bond proceeds for the redevelopment grant program; and

(f) The allocation of state bond proceeds for the business development infrastructure fund; and

(g) A general fund appropriation for Minnesota investment fund; and

(h) A general fund appropriation for the main street Minnesota revitalization program.

Resolution 08-0685, as amended, was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Approved November 10, 2008
DON NESS, Mayor

- - -

Resolution 08-0671, authorizing city officials to enter into a contract with Asphalt Zipper, Inc., for the purchase and delivery of a asphalt reclaiming/trenching machine in the amount of \$116,372.55, was introduced by Councilor Fosle for discussion.

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

Andy Peterson opposed the resolution for reasons of: the city has stated that it does not know what all the costs associated with this piece of equipment will be; data should be secured to determine if there will be a savings with purchasing this piece of equipment and given the financial situation in the city, this program needs to be looked at further before proceeding.

Councilors Fosle and Stauber opposed the resolution for reasons of: comparison of load slips were not provided; there is reference to the money that will be saved, but there is no documentation as to how this savings was calculated; this will require additional new equipment; if the city keeps raising street levels, water will go over the curbs and into yards and why is the city going into a business that competes with private businesses.

Ms. Potswald and Mayor Ness stated that: the city is responsible to see that the streets are in good condition; the city is not getting into the business of street paving; during this past season, every street and alley was patched at least once; a comprehensive cost benefit analysis will take time, but will be done; dedicated workers keep going back to the same street locations and have studied how it can be done better and there is a difference between the capping of a street versus an over lay of a street.

Resolution 08-0671 was adopted as follows:

RESOLVED, that city officials are hereby authorized to contract with Asphalt Zipper, Inc., for the purchase and delivery of a Portable Asphalt Reclaiming/Trenching Machine Model AZ500 with attachments for street and park maintenance division in accordance with city specifications and vendor quote in the amount of \$109,270 plus \$7,102.55 sales tax for a total amount of \$116,372.55, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Agency 015, Organization 2008, Object 5580, Project CE250-V808.

Resolution 08-0671 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Krause and President Reinert -- 6

Nays: Councilors Fedora, Fosle and Stauber -- 3

Approved November 10, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept the donation of \$10,000 from the Harrison Community Club to apply to the deductible for the reconstruction of Harrison Community Center, said gifts to be deposited in Fund 450, Agency 030, Revenue Source 4660, and, on behalf of the city, thank the Harrison Community Club for their generous gifts.

Resolution 08-0665 was unanimously adopted.

Approved November 10, 2008

DON NESS, Mayor

- - -

Resolution 08-0677, by councilors Anderson and Gardner, of intent to cause a gift to be

made to the St. Louis County historical society of the Minnehaha and Daniel Greysolon Sieur du Lhut windows on certain conditions, was introduced for discussion.

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

Joanne Coombe, executive director of the St. Louis County historical society, Vern Zacker, president for the board of governors for the St. Louis County historical society, and Dan Hartman, program director for Veterans Memorial Hall supported the resolution for reasons of: the St. Louis County historical society agrees to the proposed terms and conditions of accepting this gift; the mission of the society is to exhibit, preserve and conserve items of historical significance to our area and that today is significant because on this exact date in 1984, the city proclaimed it as Ann Weston Day, who the designer of the Minnehaha window.

Councilor Stauber moved to amend the title, body and statement of purpose of the resolution by adding the wording "and the Daniel Greysolon (currently located at City Hall)" after the phrase "Daniel Greysolon Sieur du Lhut," which motion was seconded and carried unanimously.

Mayor Ness expressed his opposition and concerns of: the additional window has been in City Hall for years and is not a Tiffany window; taking this action should be done through a thorough and thoughtful process; this is only a resolution requesting the administration and there is still more legal review required; this has permanent ramifications for the city and the value of these windows to the city should not be taken off the table.

Councilors Krause and Fosle opposed the resolution for reasons of: it should be left in the hands and trust of the city, and that there are concerns about the legalities of donating or gifting these windows.

Resolution 08-0677, as amended, was adopted as follows:

BY COUNCILORS ANDERSON AND GARDNER:

Recitals:

(a) In 1893, the St. Louis County Woman's Auxiliary commissioned a window to be made by Tiffany Studios of New York to be displayed at the Minnesota Building of the World's Columbian Exposition held in Chicago in 1893. The window was designed by Ann Weston who had moved to Duluth with her husband, Dr. John B. Weston. Ann Weston was an active member of the community with regard to the exposition;

(b) Ann Weston came from an adoptive family of artists. Her adoptive father, George Van Derlip, was one of the founders of the Metropolitan Museum of Art in New York. George's cousin, John R. Van Derlip, helped found the Minneapolis Society of Fine Arts;

(c) Anne Weston taught local Duluth students the art of water color. Many of her students were the children of prominent families in Duluth, such as the Congdons and the Marshalls;

(d) The stained glass window designed by Ann Weston depicts Minnehaha standing in front of the Minnehaha falls in the Twin Cities. This window is related to the famous poem of Hiawatha by Henry Wadsworth Longfellow that tells the story of the fictional characters, Minnehaha and Hiawatha;

(e) The female figure of Minnehaha appears to be modeled after a photograph by David F. Barry whose photo studio was located in Superior, Wisconsin. The woman that Mr. Barry photographed is referenced as Shooting Star. Based on her clothing and by the fact that the majority of Mr. Barry's photos were taken in North and South Dakota, it appears that Shooting Star may be a Sioux member, not an Ojibwe;

(f) After the fair ended, the window was gifted to the Duluth Public Library that was then housed in the Masonic Temple at Second Avenue East and Superior Street;

(g) In 1895, the window was brought to the city of Atlanta for display at the Cotton States and International Exposition where it took home the silver medal. Thereafter, it is presumed to have returned to the Duluth public library;

(h) The library moved in 1902 to the newly constructed Carnegie Library Building at First Avenue West and Second Street. Before the window was moved to the Carnegie Library Building, there ensued a battle of ownership between Library Association Board Member Dr. C.L. Codding and one of the owners of the Masonic Temple, E.P. Alexander. Both felt they owned the window, but Mr. Alexander agreed to donate the window to the Duluth library. Many Duluthians have pleasant memories of the window at the Carnegie Library Building;

(i) In 1904, the Duluth Chapter of the Daughters of the American Revolution decided to commission Anne Weston to create a window specific to the history of Duluth. It was named Daniel Greysolon Sieur duLhut Window in honor of the famed explorer. It shows the pristine waters of Lake Superior and the shore of Park Point as they might have appeared to Greysolon for the first time. On November 10, 1904, the Duluth Chapter of the Daughters of the American Revolution donated the window to the Carnegie Public Library;

(j) When the Carnegie Public Library was closed in 1980, both Minnehaha and Daniel Greysolon Sieur duLhut windows were relocated to the Depot at 506 West Michigan Street;

(k) The city desires to cause a gift of the windows to be made to the St. Louis County historical society to ensure that the windows stay in the city of Duluth for the enjoyment of the public.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth hereby requests the administration pursue gifting to the St. Louis County Historical Society or a suitable government or nonprofit organization the Minnehaha, the Daniel Greysolon Sieur du Lhut and the Daniel Greysolon (currently located at City Hall) windows under certain terms and conditions, which will include keeping the windows in Duluth for public display, and maintaining and insuring them.

Resolution 08-0677, as amended, was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Stauber and President Reinert -- 6

Nays: Councilors Fedora, Fosle and Krause -- 3

Approved November 10, 2008, pursuant to Section 12 of the Duluth City Charter.

- - -

At this time, Councilor Gilbert left his seat.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCE TABLED

BY COUNCILOR STAUBER

08-086 (9944) - AN ORDINANCE PERTAINING TO ALLOCATION OF INCREASED PILOT FUNDS, AMENDING SECTION 48-28 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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

- - -

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR GILBERT

08-090 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY IN AN AMOUNT NOT TO EXCEED \$1,500,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

INTRODUCED BY COUNCILOR GILBERT

08-091 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL WATER UTILITY IN AN AMOUNT NOT TO EXCEED \$220,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

INTRODUCED BY COUNCILOR FOSLE

08-092 - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTIES ON PARK POINT TO DANIEL AND AMANDA THRALOW FOR \$762,000 AND TO ELWA, LLC, FOR \$471,000.

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

Kinnan Stauber, Dave Johnson and Joel Sipress opposed the ordinance for reasons of: from legislation of the 1930's it was clear that the intention was to create the recreational facilities that are known as Park Point today; this undisturbed public land is critical Lake Superior habitat; this is an issue of statewide importance; allowing this to become a state park will protect the environment and also be an economic engine for the city of Duluth; funds from selling these valuable assets will only meet short term budgetary needs and the city should be run as a business.

- - -

INTRODUCED BY COUNCILOR CUNEO

08-089 - AN ORDINANCE PERTAINING TO PAWNBROKERS AND METAL DEALERS; AMENDING SECTION 36-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR STAUBER

08-088 (9945) - AN ORDINANCE AUTHORIZING RECONVEYANCE OF PROPERTY IN LESTER PARK TO THE STATE OF MINNESOTA.

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

Edward Alsbach questioned if this would require another revision to the comprehensive

plan and if this will be a pattern that will occur frequently as a run on the open spaces for development.

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

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Krause, Stauber and President Reinert -- 7

Nays: None -- 0

Abstention: Councilor Fedora -- 1

Absent: Councilor Gilbert -- 1

- - -

The meeting was adjourned at 9:25 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9943

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-2, TWO FAMILY RESIDENTIAL, TO C-5, PLANNED COMMERCIAL DEVELOPMENT, PROPERTY LOCATED AT 320 EAST MYRTLE STREET (GORDON AND JUDITH GRANT).

The city of Duluth does ordain:

Section 1. The northerly 127.95 feet of Lot 1, and the northerly 127.95 feet of easterly ten feet of Lot 2, Block 5, Central Acres Second Division Duluth, be reclassified from R-2, Residential, to C-5, Commercial, and 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)

[see map at end of meeting]

(Reference File No. 08099)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 21, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed November 10, 2008
Approved November 10, 2008
DON NESS, Mayor

- - -

ORDINANCE NO. 9944

BY COUNCILOR STAUBER:

AN ORDINANCE PERTAINING TO ALLOCATION OF INCREASED PILOT FUNDS, AMENDING SECTION 48-28 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 48-28 of the Duluth City Code 1959, as amended, is hereby amended to read as follows:

Sec. 48-28. Disposition of money collected under chapter.

(a) Except as provided for in subsections (b) and (c) below, all money collected or recovered under the provisions of this Chapter shall be paid into the water and gas fund for the benefit and use of the department or by resolution of the city council for the benefit and use of the city;

(b) For the purposes of this Section, the following terms shall have the meanings hereinafter ascribed to them:

(1) PILOT shall mean those funds authorized to be transferred out of the gas division account in any year pursuant to the authority of Laws, 1951, Chapter 507, Section 1, as amended by Laws 1993, Chapter 148, Section 1;

(2) Base PILOT shall mean the PILOT from the calendar year preceding the year in which the current PILOT is to be determined. For the year 2008 only, the base PILOT shall be deemed to have been \$4,000,000;

(3) Current PILOT shall mean the PILOT for the year then current;

(4) Incremental PILOT shall mean the difference between the base PILOT and the current PILOT in any year;

(c) Nothing to the contrary in the foregoing, the incremental PILOT shall be deposited and used as follows:

(1) The amount of the incremental PILOT, up to an amount equal to the base PILOT times the increase from the preceding year in the consumer price index for all urban consumers (CPI-U), for U.S. city average (1982-84 = 100) issued by the bureau of labor statistics of the U.S. department of labor or its successor index, shall be deposited in the general fund of the city;

(2) The remaining amount of the incremental PILOT in excess of the amount determined in sub-subsection (1) above, if any, shall be deposited in the other post employment benefits-retiree healthcare fund.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: December 21, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Absent: Councilor Gilbert -- 1

Passed November 10, 2008
Approved November 10, 2008

ATTEST:

JEFFREY J. COX, City Clerk

DON NESS, Mayor

- - -

ORDINANCE NO. 9945

**AN ORDINANCE AUTHORIZING RECONVEYANCE OF PROPERTY
IN LESTER PARK TO THE STATE OF MINNESOTA.**

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to reconvey the below-described property in St. Louis County, Minnesota, previously free-conveyed to the city, to the state of Minnesota:

Lots 1 through 6 and Lots 33 through 37, Block 64, Lester Park Fourth Division.

Section 2. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: December 21, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Krause, Stauber and President Reinert -- 7

Nays: None -- 0

Abstention: Councilor Fedora -- 1

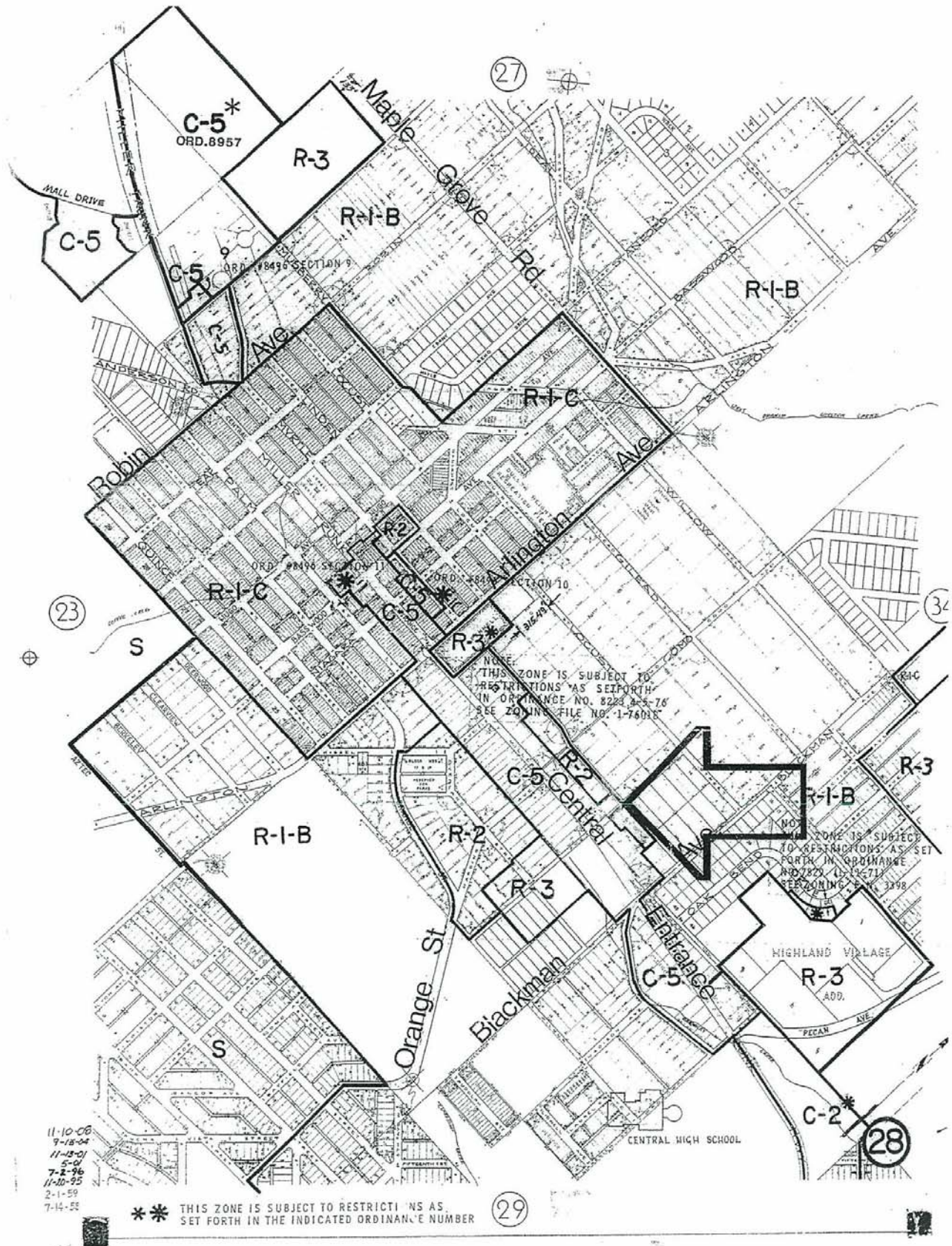
Absent: Councilor Gilbert -- 1

Passed November 10, 2008
Approved November 10, 2008
DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -



OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, November 20, 2008, 5:22 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Absent: Councilor Krause -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-1120-01 The PFM Group bid results regarding the proposed bond sales (08-0693R, 08-0694R, 08-0695R and 08-0698R). -- Received

- - -

MOTIONS AND RESOLUTIONS

Resolution 08-0693, providing for the issuance, sale and delivery of \$2,515,000 general obligation equipment certificates of indebtedness, Series 2008E; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof; Resolution 08-0694, Providing for the issuance, sale and delivery of \$3,055,000 general obligation street improvement refunding bonds, Series 2008F; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof; Resolution 08-0695, providing for the issuance, sale and delivery of \$1,600,000 general obligation capital improvement bonds, Series 2008D; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof; and Resolution 08-0698, providing for the issuance, sale and delivery of \$1,965,000 general obligation tax increment refunding bonds, Series 2008G; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof, were introduced by Councilor Gilbert for discussion.

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

Jessica Cameron, representing The PFM Group, reviewed the market volatility and the results of the bids for the four bond issues.

Councilor Fedora requested resolutions 08-0694 and 08-0698 be moved to the front of the agenda. He explained that these are refunding bond issues that save the city money without extending the life of the bonds.

Resolutions 08-0694 and 08-0698 were adopted as follows:

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 \$6,855,000 General Obligation Bonds, Series 1999C, dated June 1, 1999 (the "1999 Bonds"). The 1999 Bonds were, in part, authorized and issued pursuant to the City Charter and Minnesota Statutes, Chapter 475 and the proceeds were used to finance a portion of the cost of local public improvements.

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the "Act") and Section 475.67, Subdivisions 1 through 12 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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 \$3,055,000 General Obligation Street Improvement Refunding Bonds, Series 2008F (the "Bonds"), to refund the outstanding 1999 Bonds maturing on and after February 1, 2010 (the "Refunded Bonds"), of which \$3,050,000 in principal amount is outstanding. The 1999 Bonds maturing on and after February 1, 2010, are subject to prepayment and redemption on February 1, 2009 (February 1, 2009 is herein referred to as 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.

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 Hutchinson, Shockey, Erley & Co. of Chicago, Illinois (the "Purchaser"), to purchase the Bonds at a cash price of \$3,082,019.05, 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. Upon receipt of the good faith deposit, 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. In the event the Purchaser fails to provide the good faith deposit in accordance with the Official Terms of Offering, the mayor shall reject the Purchaser's bid and may award the sale of the Bonds to the bidder with the next best bid, or if such next best bidder fails to enter into a contract for sale of the Bonds and fails to satisfy such deposit requirements, the mayor is authorized to schedule a sale of the Bonds in substantial conformance with the Official Terms of Offering. All actions of the mayor and the clerk and Public Financial Management, Inc., independent financial advisor to the City, taken with regard to the sale of the Bonds are hereby ratified and approved.

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
2010	\$460,000	3.50%
2011	490,000	3.50%
2012	500,000	3.50%
2013	515,000	3.50%

Year	Amount	Interest Rate
2014	535,000	3.75%
2015	555,000	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, 2009. 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 except as to dating thereof and cause the opinion to be printed on or attached to each Bond.

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 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 REFUNDING BOND,
SERIES 2008F

R-__ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	December __, 2008	

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, 2009. 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 \$3,055,000, 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, Section 476.67, Subdivisions 1 through 12, and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on November 20, 2008 (the "Resolution"), and is issued for the purpose of providing money to refund the outstanding principal amount of the \$6,855,000 General Obligation Bonds, Series 1999C, dated June 1, 1999. The principal hereof and interest hereon are payable in part from special assessments levied against property specially benefitted by local improvements and in part from ad valorem taxes as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred.

The Bonds 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/___/08	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 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.

Section 3. Escrow Agreement; Escrow Agent.

3.01 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 outstanding 1999 Bonds.

3.02 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. 08-1120-02. 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 4. Covenants, Accounts and Representations.

4.01 (a) The Bonds are payable from the 2008 Street Improvement Refunding Bond Account (the "Debt Service Fund") hereby created within the City's Special Assessment Debt Service Fund. 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 1999 Bonds; (ii) any balance remaining on the Redemption Date in the debt service account created in the City's resolution

authorizing the issuance and sale of the 1999 Bonds (Resolution No. 99-0472)(the "Prior Resolution") after payment of principal and interest on the 1999 Bonds (including the Refunded Bonds) on the Redemption Date; (iii) any collections of the proceeds of special assessments levied for the projects listed in Section 1.01B of the Prior Resolution and the ad valorem taxes hereafter levied for the payment of a portion 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 or other funds 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"]; and (d) funds of the City in an amount sufficient to meet the requirements of the Escrow Account (the "Funds") for the payment of principal and interest due on the 1999 Bonds on the Redemption Date and for the principal of the Refunded Bonds called for redemption on 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 may be invested, but only in accordance with the Act, the Escrow Agreement and this Section, in securities specified in Section 475.67, Subdivision 8(a) of the Act.

(iii) From the Escrow Account there shall be paid: (a) all principal of and interest to be paid on the 1999 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 1999 Bonds is irrevocably appropriated to the payment of the principal of and interest on the 1999 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 to be deposited in the Escrow Account for the 1999 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 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 1999 Bonds have previously been terminated and all bond proceeds therein have been expended.

4.02 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 1999 Bonds. The City further

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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.

4.03 It is hereby determined that upon the receipt of proceeds of the Bonds (the "Proceeds") for payment of the 1999 Bonds that an irrevocable appropriation to the Escrow Account 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 Prior Resolution for collection year 2009 and thereafter.

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 Special Assessments	Net Tax Levy
2008	2009	\$616,430	\$125,965	*\$490,465
2009	2010	614,185	126,500	487,685
2010	2011	606,677	121,650	485,027
2011	2012	604,052	121,750	482,302
2012	2013	606,126	121,500	484,626
2013	2014	606,060	126,000	480,060
*Amount levied and estimated special assessments in the Prior Resolution for the levy year 2008 for the 1999 Bonds, which will be available for payment of the principal and interest on the Bonds on August 1, 2009 and February 1, 2010.				

Said levies are such that if collected in full they, together with the estimated receipts of the special assessments pledged for payment of 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 special assessments from the projects described in Section 1.01A of the Prior 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 2008 Street Improvement Refunding Bond Account within the Special Assessment Debt Service Fund. If the balances in the 2008 Street 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 2008 Street Improvement Bond Account when the balances therein are sufficient.

Section 5. Refunding, Findings, Prepayment of Refunded Bonds.

5.01 It is hereby found and determined that based upon information presently available from the City's financial advisers, the issuance of the Bonds is consistent with covenants in the Prior Resolution and is necessary and desirable for the reduction of debt service cost to the City.

5.02 It is hereby found and determined that the Proceeds and other available funds appropriated to the Escrow Account will be sufficient to pay all of the principal of and interest on the 1999 Bonds due on February 1, 2009, and the principal of the Refunded Bonds called for prepayment and redemption on the Redemption Date.

5.03 The 1999 Bonds shall be paid, 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 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 and to the bond insurance company of the Refunded Bonds.

5.04 When the principal of the 1999 Bonds and all interest thereon have been discharged as provided in this section, all pledges, covenants and other rights granted by the Prior Resolution to the holders of the 1999 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 1999 Bonds shall remain in full force and effect.

Section 6. 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 7. Tax Covenants.

7.01 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.

7.02 (a) The proceeds of the 1999 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.

7.03 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 Capital Improvement Bonds, Series 2008D (the "Series 2008D Bonds"), General Obligation Equipment Certificates of Indebtedness, Series 2008E (the "Certificates"), and General Obligation Tax Increment Refunding Bonds, Series 2008G (the "Series 2008G Bonds"). The Bonds will not be paid out of substantially the same source as the Series 2008D Bonds, the Certificates or the Series 2008F Bonds; consequently the Bonds are a separate issue under Treasury Regulations Section 1.150-1(c).

Resolution 08-0694 was unanimously adopted.

Approved November 20, 2008

DON NESS, Mayor

- - -

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 \$3,900,000 General Obligation Tax Increment Bonds, Series 1999D, dated June 1, 1999 (the "1999 Bonds"), pursuant to Resolution 99-0471 (the "Prior Resolution"). The 1999 Bonds were authorized and issued pursuant to the City Charter and Minnesota Statutes, Chapter 475 and Section 469.178. The proceeds were used to finance a portion of public development costs associated with construction of the Technology Village Ramp and improvements to the Superior Street Ramp and the Depot Ramp. Each of the ramps are owned by the City and are located in Tax Increment Financing District No. 19 in Development District No. 17 in the City.

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the "Act") and Section 475.67, Subdivisions 1 through 12 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 \$1,965,000 General Obligation Tax Increment Refunding Bonds, Series 2008G (the "Bonds"), to refund the outstanding 1999 Bonds maturing on and after February 1, 2010 (the "Refunded Bonds"), of which \$1,960,000 in principal amount is outstanding. The 1999 Bonds maturing on and after February 1, 2010, are subject to prepayment and redemption on February 1, 2009 (February 1, 2009 is herein referred to as the "Redemption Date").

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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.

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 Hutchinson, Shockey, Erley & Co. of Chicago, Illinois (the "Purchaser"), to purchase the Bonds at a cash price of \$1,982,349.55, 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. Upon receipt of the good faith deposit, 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. In the event the Purchaser fails to provide the good faith deposit in accordance with the Official Terms of Offering, the mayor shall reject the Purchaser's bid and may award the sale of the Bonds to the bidder with the next best bid, or if such next best bidder fails to enter into a contract for sale of the Bonds and fails to satisfy such deposit requirements, the mayor is authorized to schedule a sale of the Bonds in substantial conformance with the Official Terms of Offering. All actions of the mayor and the clerk and Public Financial Management, Inc., independent financial advisor to the City, taken with regard to the sale of the Bonds are hereby ratified and approved.

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
2010	\$295,000	3.50%
2011	315,000	3.50%
2012	325,000	3.50%
2013	335,000	3.50%
2014	340,000	3.75%
2015	355,000	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, 2009. 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 except as to dating thereof and cause the opinion to be printed on or attached to each Bond.

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,

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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 TAX INCREMENT REFUNDING BOND, SERIES
2008G

R-_____ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, _____	December __, 2008	

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, 2009. 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 \$1,965,000, 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, Section 476.67, Subdivisions 1 through 12, and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on November 20, 2008 (the "Resolution"), and is issued for the purpose of providing money to refund the outstanding principal amount of the \$3,900,000 General Obligation Tax Increment Bonds, Series 1999D, dated June 1, 1999. The principal hereof and interest hereon are payable in part from tax increment revenue from Tax Increment Financing District No. 19 and in part from net revenues of certain parking facilities of the City as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred.

The Bonds are not subject to redemption 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.

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

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

IN WITNESS WHEREOF, the City of Duluth, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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/___/08	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 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.

Section 3. Escrow Agreement; Escrow Agent.

3.01 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 outstanding 1999 Bonds.

3.02 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. 08-1120-02. 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 4. Covenants, Accounts and Representations.

4.01 (a) The Bonds are payable from a separate debt service account (the “Debt Service Fund”) hereby created within the City’s Debt Service Fund. 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 1999 Bonds; (ii) any balance remaining on the Redemption Date in the debt service account created in the Prior Resolution authorizing the issuance and sale of the 1999 Bonds after payment of principal and interest on the 1999 Bonds on the Redemption Date; (iii) all collections from the Pledge Agreement as described in the Prior Resolution and in Section 4.02(a) hereof and the Net Revenues of the Technology Village Ramp as described in Section 4.02(b) hereof; (iv) the ad valorem taxes hereafter levied, if any, for the payment of a portion of the Bonds and interest thereon; (v) all investment earnings on funds in the Debt Service Fund; (vi) 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”); (vii) any amount of additional interest permitted by Section 475.56 of the Act paid by the Purchaser (the “Additional Interest”), to the

extent not required to fund the Escrow Account; and (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 4.04 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"]; and (d) funds of the City in an amount sufficient to meet the requirements of the Escrow Account (the "Funds"); for the payment of principal and interest due on the 1999 Bonds on the Redemption Date and for the principal of the Refunded Bonds called for redemption on 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 may be invested, but only in accordance with the Act, the Escrow Agreement and this Section, in securities specified in Section 475.67, Subdivision 8(a) of the Act.

(iii) From the Escrow Account there shall be paid: (a) all principal of and interest to be paid on the 1999 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 1999 Bonds is irrevocably appropriated to the payment of the principal of and interest on the 1999 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 to be deposited in the Escrow Account for the 1999 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 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 1999 Bonds have previously been terminated and all bond proceeds therein have been expended.

4.02 (a) There is hereby pledged to the Debt Service Fund certain tax increments from Tax Increment Financing District No. 19 received by the City pursuant to the Tax Increment Pledge Agreement dated as of June 1, 1999, between the City and the Duluth Economic Development Authority ("DEDA") (the "Pledge Agreement"), which pledge has been accepted by the City. It is the intention of the City that a portion of the principal of the Bonds and interest thereon as set forth in the Pledge Agreement be paid with tax increment revenues derived from the Pledge Agreement, but in no event will less than 20% of the costs of the Project financed with the Bonds be paid from tax increment.

(b) The Treasurer shall transfer from the Technology Village Ramp Operating Account (as defined in Section 4.03 hereof) to the Debt Service Fund amounts of the Net Revenues from the Technology Village Ramp sufficient for the payment of the principal of the Bonds and interest thereon not paid for by the tax increment from the Pledge Agreement, and all

charges due to the Bond Registrar. Such transfers shall be made at the times determined by the Treasurer, in accordance with policies established by resolutions of the City Council.

4.03 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 of the Technology Village Ramp 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 (except for the amount to be paid from the Pledge Agreement) and on all other bonds heretofore or hereafter issued and made payable from said Net Revenues, and will operate such parking ramp facilities and segregate and account for the revenues thereof as provided in this Section.

The City will place all such charges and revenues from the Technology Village Ramp, when collected, and all money received from the sale of any facilities or equipment of the Technology Village Ramp in a separate Technology Village Ramp Operating Account within the Parking Fund 505, Agency 015, maintained by the City (the "Technology Village Ramp Operating Account"). 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 Technology Village Ramp, and to maintain such reasonable reserves for such expenses as the Chief Administrative Officer 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 Technology Village 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 Technology Village Ramp, in excess of payments due from and reserves required to be maintained in the Technology Village Ramp Operating Account, may be used for necessary capital expenditures for improvement to such Ramp, for the prepayment and redemption of the Bonds, may be used in accordance with the agreement between the City and DEDA regarding the development of the Technology Village Ramp, and thereafter for any other proper municipal purpose.

4.04 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 Net Revenues from the Technology Village Ramp and the tax increment revenues herein pledged and appropriated to said fund will be received at the times and in amounts not less than five percent in excess of the amounts needed to meet when due the principal and interest payments 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 Net Revenues and the tax increment 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.

4.05 As set out in Section 4.01A of the Prior Resolution, a portion of the Technology Village Ramp was constructed with proceeds of the 1999 Bonds and a portion with cash from the City and DEDA. The portion of the Technology Village Ramp financed by the 1999 Bonds and refinanced by the Bonds is described as follows:

The entire parking ramp structure for Levels 2 through 5, inclusive, and that portion of the structure bounded by the east-west grid lines 11 and 15 and the north-south grid lines A and E, extending from Level L to Level 1, inclusive; such lines being depicted on the plans and specifications for the Duluth Technology Village Parking Structure prepared by LHB Engineers and Architects, dated April 19, 1999.

The City hereby certifies that no proceeds of the 1999 Bonds were used to finance other portions of the Technology Village Ramp and that such other portions are not subject to limitations on private use under federal tax laws.

Section 5. Refunding, Findings, Prepayment of Refunded Bonds.

5.01 It is hereby found and determined that based upon information presently available from the City's financial advisers, the issuance of the Bonds is consistent with covenants in the Prior Resolution and is necessary and desirable for the reduction of debt service cost to the City.

5.02 It is hereby found and determined that the Proceeds and other available funds appropriated to the Escrow Account will be sufficient to pay all of the principal of and interest on the 1999 Bonds due on February 1, 2009, and the principal of the Refunded Bonds called for prepayment and redemption on the Redemption Date.

5.03 The 1999 Bonds shall be paid, 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 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 and to the bond insurance company of the Refunded Bonds.

5.04 When the principal of the 1999 Bonds and all interest thereon have been discharged as provided in this section, all pledges, covenants and other rights granted by the Prior Resolution to the holders of the 1999 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 1999 Bonds shall remain in full force and effect.

Section 6. 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 7. Tax Covenants.

7.01 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.

7.02 (a) The proceeds of the 1999 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.

7.03 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 Capital Improvement Bonds, Series 2008D (the "Series 2008D Bonds"), General Obligation Equipment Certificates of Indebtedness, Series 2008E (the "Certificates"), and General Obligation Street Improvement Refunding Bonds, Series 2008F (the "Series 2008F Bonds"). The Bonds will not be paid out of substantially the same source as the Series 2008D Bonds, the Certificates or the Series 2008F Bonds; consequently the Bonds are a separate issue under Treasury Regulations Section 1.150-1(c).

Resolution 08-0698 was unanimously adopted.

Approved November 20, 2008

DON NESS, Mayor

- - -

Resolutions 08-0693 and 08-0695 were adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

Nays: Councilors Fedora, Fosle and Stauber -- 3

Absent: Councilor Krause -- 1

[Editor's Note: Both resolutions were considered separately later in this meeting.]

- - -

Mayor Ness explained that the capital improvement program bond issue needs six votes in favor in order to pass, which is a requirement of state statute.

President Reinert stated that since resolutions 08-0693 and 08-0695 should have been voted on separately, the council needs to consider these two resolutions individually.

To questioning from the council, Terri Groshong, acting city architect, replied that approximately \$1.1 million has been obligated for capital improvement projects and would have to come out of the general fund if the bond issue is not passed.

Councilor Fedora stated he will reconsider his vote on this bond issue as the mayor has made a point of working with the council in creating a strategic plan to change how the city is borrowing money.

Councilor Stauber objected to the reconsideration of the two bond resolutions at this meeting as the rules state it has to be after consideration of another resolution or at the next meeting.

President Reinert replied that he is not asking for a reconsideration of the vote but stated that the chair made a mistake in moving both of the resolutions at the same time when one required a 2/3's vote. He stated that since there is objection to his decision, he will ask the council to vote on whether to uphold or overturn the chair's decision, which vote was upheld upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Gardner, Gilbert and President Reinert -- 6

Nays: Councilors Fosle and Stauber -- 2

Absent: Councilor Krause -- 1

Resolution 08-0693 was adopted as follows:

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. 07-0762 on December 3, 2007 (the "Intent Resolution"), declaring the intention of the City to issue such certificates of indebtedness in the amount of approximately \$2,600,000 to finance the purchase of capital equipment authorized by the Act and to pay for costs of issuance of such certificates of indebtedness. 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 \$2,515,000 General Obligation Equipment Certificates of Indebtedness, Series 2008E, 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.

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 Hutchinson, Shockey, Erley & Co. of Chicago, Illinois (the "Purchaser"), to purchase the Certificates at a cash price of \$2,563,831.05, 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. Upon receipt of the good faith deposit, 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. In the event the Purchaser fails to provide the good faith deposit in accordance with the Official Terms of Offering, the mayor shall reject the Purchaser's bid and may award the sale of the Certificates to the bidder with the next best bid, or if such next best bidder fails to enter into a contract for sale of the Certificates and fails to satisfy such deposit requirements, the mayor is authorized to schedule a sale of the Certificates in substantial conformance with the Official Terms of Offering. All actions of the mayor and the clerk and Public Financial Management, Inc., independent financial advisor to the City, taken with regard to the sale of the Certificates are hereby ratified and approved.

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 February 1 in the respective years and amounts stated and shall bear interest as follows:

Year	Amount	Interest Rate
2010	\$455,000	4.00%
2011	485,000	4.00%
2012	505,000	4.00%
2013	525,000	4.25%
2014	545,000	4.25%

2.02 The Certificates are not subject to redemption and prepayment before maturity.

2.03 The interest shall be payable semiannually on February 1 and August 1 and in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2009. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Certificates by check or draft mailed to the registered owners of the Certificates shown on the bond registration records maintained by the Bond Registrar at the close of business on the 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 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 except as to dating thereof and cause the opinion to be printed on or attached to each Certificate.

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.

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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 2008E

R-__ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	December __, 2008	

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, 2009. 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 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 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 \$2,515,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Sections 410.32 and 412.301 and Chapter 475, the City Charter and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on November 20, 2008 (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

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Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this 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 unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Certificate and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Date	Registered Owner	Signature of Bond Registrar
12/___/08	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 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.

Section 3. Covenants, Accounts and Representations.

3.01 The City has created a separate acquisition account within the Capital Equipment Fund 250 to which there shall be credited \$2,559,000.00 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. The City's intent is to acquire and finance the capital equipment listed in the Intent Resolution with the proceeds of the Certificates.

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
2008	2009	*\$597,022
2009	2010	598,579
2010	2011	599,209
2011	2012	598,999
2012	2013	596,571
*anticipatory tax levy including rounding amount of \$4,831.05		

(b) A separate debt service account is hereby created and designated as the "2008 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 (i) the rounding amount of \$4,831.05 and (ii) 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 equipment purchases 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.

6.05 In addition to the Certificates, the City is selling, pursuant to a single offering document and on the same date, the following obligations: General Obligation Capital Improvement Bonds, Series 2008D (the "Series 2008D Bonds"), General Obligation Street Improvement Refunding Bonds, Series 2008F (the "Series 2008F Bonds"), and General Obligation

Tax Increment Refunding Bonds, Series 2008G (the "Series 2008G Bonds"). The Certificates will not be paid out of substantially the same source of funds as the Series 2008F Bonds and the Series 2008G Bonds; consequently, the Certificates will not be combined with them for a single issue. However, the Certificates and the Series 2008D Bonds are expected to be paid from substantially the same source of funds and are an issue under Treasury Regulations Section 1.150-1(c).

Resolution 08-0693 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Gardner, Gilbert and President Reinert -- 6

Nays: Councilors Fosle and Stauber -- 2

Absent: Councilor Krause -- 1

Approved November 20, 2008

DON NESS, Mayor

- - -

Councilor Stauber stated that bonding has gotten not only the city into trouble but also the state and borrowing money to pay off debt is not the right thing to do.

Resolution 08-0695 was adopted as follows:

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 2008 through 2012 (the "Plan").

B. The City Council held a public hearing on the proposed Plan and approved the Plan on December 3, 2007.

1.03 A. On January 28, 2008, the City Council held a public hearing on the issuance of bonds in an amount not to exceed \$1,600,000 to provide funds for the replacement of the roof on City Hall; fire department facilities repairs and maintenance including driveways, overhead doors, ventilation systems, masonry and window repair, including the remodeling or relocation of the Park Point firehall, remodeling the Gary New Duluth firehall, and replacing the roof on the Woodland firehall; constructing, repairing or improving public works maintenance facilities, including constructing a salt and sand storage facility, security fencing, and site development work; all 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 28, 2008, the City Council has determined that it is necessary and expedient to issue general obligation capital improvement bonds in an amount not to exceed \$1,600,000 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 February 4, 2008.

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 \$1,600,000 General Obligation Capital Improvement Bonds, Series 2008D, of the City (the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

“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 \$8,765,878, which is an amount equal to 0.16 percent of taxable market value of property in the City for taxes payable in 2008.

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.

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 UBS Financial Services, Inc. of Chicago, Illinois (the “Purchaser”), to purchase the Bonds at a cash price of \$1,588,902.45, 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. Upon receipt of the good faith deposit, 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. In the event the Purchaser fails to provide the good faith deposit in accordance with the Official Terms of Offering, the mayor shall reject the Purchaser’s bid and may award the sale of the Bonds to the bidder with the next best bid, or if such next best bidder fails to enter into a contract for sale of the Bonds and fails to satisfy such deposit requirements, the mayor is authorized to schedule a sale of the Bonds in substantial conformance with the Official Terms of Offering. All actions of the mayor and the clerk and Public Financial Management, Inc., independent financial advisor to the City, taken with regard to the sale of the Bonds are hereby ratified and approved.

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 and shall bear interest at the annual rates stated as follows:

Year	Amount	Interest Rate
2010	\$145,000	3.00%
2011	160,000	3.00%
2012	165,000	3.25%
2013	170,000	3.25%
2014	175,000	3.50%

Year	Amount	Interest Rate
2015	185,000	3.75%
2016	190,000	4.00%
2017	200,000	4.00%
2018	210,000	4.25%

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 August 1, 2009. 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 except as to dating thereof and cause the opinion to be printed on or attached to each Bond.

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 CAPITAL IMPROVEMENT BOND, SERIES 2008D

R-__

\$_____

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Rate	Maturity	Date of Original Issue	CUSIP
%	February 1, ____	December __, 2008	

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 August 1, 2009. 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 \$1,600,000, 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 2008 through 2012 (the "Plan") and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on November 20, 2008 (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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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 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
__/__/08	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.

Section 3. Revenues, Accounts and Covenants.

3.01 The City has created a separate account designated the 2008 Capital Improvement Bonds Construction Account (the "Construction Account") within its Capital Improvement Project Fund 450, Agency 030, to which there shall be credited the proceeds of the Bonds in the amount of \$1,585,600, 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 "2008 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Into the Debt Service Fund shall be credited (i) the rounding amount of \$3,302.45, and (ii) 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
2008	2009	* \$211,202
2009	2010	234,234
2010	2011	224,149
2011	2012	223,769
2012	2013	223,217
2013	2014	227,286
2014	2015	225,252
2015	2016	227,772
2016	2017	229,872
*anticipatory levy plus the rounding amount of \$3,302.45		

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.

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 2008E (the "Certificates"), General Obligation Street Improvement Refunding Bonds, Series 2008F (the "Series 2008F Bonds"), and General Obligation Tax Increment Refunding Bonds, Series 2008G (the "Series 2008G Bonds"). The Bonds will not be paid out of substantially the same source of funds as the Series 2008F Bonds and the Series 2008G Bonds; consequently, the Bonds will not be combined with them for a single issue. However, the Bonds

and the Certificates are expected to be paid from substantially the same source of funds and are an issue under Treasury Regulations Section 1.150-1(c).

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 08-0695 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert and President Reinert -- 7

Nays: Councilor Stauber -- 1

Absent: Councilor Krause -- 1

Approved November 20, 2008

DON NESS, Mayor

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The meeting was adjourned at 5:50 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 24, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-1124-01 The following communications regarding proposed sale of certain properties on Park Point (08-092-O): (a) Janet Draper; (b) Kristin Blakeslee Jarocki; (c) Ben Sosniecki; (d) Kinnan Stauber; (e) Daniel Westholm. -- Received

- - -

REPORTS FROM OTHER OFFICERS

08-1124-02 Assessor letters of sufficiency of petitions to vacate:

(a) All that part lying within the southerly 1,000 feet of the utility easement which is bounded on the west by the northerly extension of the west line of Lot 5, Block E, Endion Division of Duluth, and bounded on the east by the southerly extension of the east line of Lot 12, Block 2, Endion Division of Duluth;

(b) Alleyways and relocating the utilities in Blocks 1, 2 and 11, Meyers and Whipples Addition to Duluth;

(c) Lot 44 and the west half of Lot 46, Block 1, Central Division of Duluth (222 East Superior Street);

(d) West Fourth Street from North 44th Avenue West to North 45th Avenue West. -- Received

08-1124-03 Clerk application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from Animal Allies Humane Society on March 27, 2009. -- Received

08-1124-04 Purchasing agent emergency purchase order awarded to Ulland Brothers for gas main replacement in East Third Street between Fifth and Sixth avenues East in the approximate amount of \$29,500. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

08-1124-05 Board of zoning appeals minutes of August 26, 2008, meeting. -- Received

08-1124-06 Parks and recreation commission minutes of October 8, 2008, meeting. -- Received

08-1124-07 Planning commission minutes of October 14, 2008, meeting. -- Received

- - -

At this time, 7:10 p.m., the public hearing regarding the proposed Duluth economic development authority (DEDA) enabling resolution amendment, was called to order.

Councilor Stauber reviewed that DEDA has passed a resolution that makes them more independent of the city and more responsible for economic development, and a public hearing is required when a change in the structure of DEDA is proposed.

No one from the public spoke at the public hearing.

At this time, 7:12 p.m., the public hearing was closed and the regular order of business was resumed.

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RESOLUTIONS TABLED

Councilor Fosle moved to remove Resolution 08-0656, amending Resolution 07-0723 adopting license, permit and fee charges for 2008; creating a point of sale inspection fee of \$200 for inspections where a sump pump is required and \$100 where a sump pump is already in place or is not otherwise required, from the table, which motion was seconded and unanimously carried.

Councilor Stauber moved to amend the resolution by:

- (a) Inserting the word "city" after the phrase "fees therefore as \$200 for";
- (b) Inserting the phrase "for a city inspection" after the phrase "is required and \$100";
- (c) Replace "Ordinance No. 9930" with "January 1, 2009,"

which motion was seconded and unanimously carried.

Resolution 08-0656, as amended, was adopted as follows:

RESOLVED, that pursuant to Duluth City Code Section 31-6(a), Resolution 07-0723 adopting license, permit and fee charges for 2008, be amended by amending the fee schedule for public works and utilities to include a new category of fees for point of sale inspections and establishing the fees therefore as \$200 for city inspections where a sump pump is required and \$100 for a city inspection where a sump pump is already in place or is not otherwise required, which fees shall be effective as of the date of January 1, 2009.

Resolution 08-0656, as amended, was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Krause and President Reinert -- 6

Nays: Councilors Fedora, Fosle and Stauber -- 3

Approved November 24, 2008

DON NESS, Mayor

- - -

Councilor Stauber moved to remove Resolution 08-0574, establishing rules for off-leash dog areas, by councilors Anderson, Gardner and Stauber, from the table, which motion was seconded and unanimously carried.

Resolution 08-0574 was adopted as follows:

BY COUNCILORS ANDERSON, GARDNER AND STAUBER:

RECITALS:

Ordinance No. 9921, adopted July 21, 2008, provided for the designation of off-leash trails and off-leash areas by resolution.

Resolution 08-0341, adopted July 21, 2008, designated certain off-leash trails and areas and required, in part, that before the resolution takes effect the city council must adopt a resolution establishing rules for off-leash trails and areas.

NOW, THEREFORE BE IT RESOLVED, that the city of Duluth hereby establishes the rules

for designated off-leash dog trails and areas, on file in the office of the city clerk as Public Document No. 08-1124-08.

Resolution 08-0574 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: Councilor Fosle -- 1

Approved November 24, 2008

DON NESS, 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 Reinert moved passage of the consent agenda, which motion was seconded and unanimously carried.

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 The Title Loan Company, Inc.

Resolution 08-0710 was unanimously adopted.

Approved November 24, 2008

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating liquor license, on sale Sunday license, on sale dancing license and 2:00 a.m. beverage license for the period ending August 31, 2009, subject to departmental approvals and the payment of sales and property taxes:

Club Friction, LLC (Score Sports Bar & Grill), 21 North Fourth Avenue West, with Timothy Timbers, 51 percent owner, and David Koeller, 49 percent owner.

Resolution 08-0713 was unanimously adopted.

Approved November 24, 2008

DON NESS, Mayor

- - -

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 further restrictions:

College of St. Scholastica, 1200 Kenwood Avenue, for December 6, 2008, with Luke Moravec, manager.

Resolution 08-0714 was unanimously adopted.

Approved November 24, 2008

DON NESS, Mayor

- - -

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, who are voters residing in the area of the sanitary district, be nominated for election to the board of managers for the term indicated:

(a) John Bowen, of the town of Duluth, Minnesota, whose term shall commence upon passage of all concurring resolutions by the municipalities, and shall expire on the first business day of January, 2011;

(b) Scott Smith, of the city of Duluth, Minnesota, whose term shall commence upon passage of all concurring resolutions by the municipalities, and shall expire on the first business day of January, 2012.

Section 3. Election of board of managers. Election of the above-named persons to the board of managers of the sanitary district is approved and such persons are 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 08-0687 was unanimously adopted.

Approved November 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the commission on disabilities of Clara Borrell for a term expiring on November 1, 2010, replacing Violet Woods who resigned, is confirmed.

Resolution 08-0711 was unanimously adopted.

Approved November 24, 2008

DON NESS, Mayor

- - -

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 has received from the Ordean Foundation for such purpose, which agreement is on file in the office of the city clerk as Public Document

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

No. 08-1124-09; payment by the city will be made from the General Fund 0100, Agency 700, Organization 1407, Object 5407.

Resolution 08-0721 was unanimously adopted.
 Approved November 24, 2008
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file with the city clerk as Public Document No. 08-1124-10, with Fryberger, Buchanan, Smith and Frederick, P.A., under which that firm will provide professional services related to the city's 2009 state legislative program, at a cost to the city not to exceed \$44,940 for the year 2009, and ability for the administration to renew for a second year, which shall be payable from Fund 100-700-1402-5312.

Resolution 08-0712 was unanimously adopted.
 Approved November 24, 2008
 DON NESS, Mayor

- - -

RESOLVED, that the following is the revised list of high priority bridges the city of Duluth intends to replace, rehabilitate or remove 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
92277	26th Avenue West	\$1,550,000	\$650,000		\$900,000	2009
69812	27th Avenue West	\$1,300,000	\$800,000		\$500,000	2011
L8491	38th Avenue West	\$115,000	\$69,000		\$46,000	2009
L8516	Fairmont Street	\$230,000	\$138,000		\$92,000	2009
L8476	Lincoln Park Drive	\$700,000	\$550,000		\$150,000	2009
L5931	Niagara Street	\$70,000			\$70,000	2009
93402	Second Street	\$850,000	\$500,000		\$350,000	2009
91143	Third Street	\$680,000	\$544,000		\$136,000	2012
L3140	63rd Avenue West	\$420,000	\$160,000		\$260,000	2012
L5833	Triggs Avenue	\$140,000	\$100,000		\$40,000	2013
L8496	Toledo Street	\$140,000	\$100,000		\$40,000	2013

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Old Bridge Number	Road or Street	Total Project Cost	State Bridge Funds	Federal Funds	Local or State Aid Funds	Proposed Construction Year
88550	Central Avenue	\$200,000	\$700,000		\$125,000	2012
L6007	Skyline Parkway	\$800,000	\$600,000		\$200,000	2014

Resolution 08-0683 was unanimously adopted.
 Approved November 24, 2008
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to pay to Paul and Peg Podemski the sum of \$12,461.63 in full and final settlement of the claim which arose out of a blockage in the municipal sanitary sewer near 205 102nd Avenue West on August 16, 2008; payment to be made from Self-Insurance Fund 610, Agency 036, Organization 1653, Object 5841.

Resolution 08-0691 was unanimously adopted.
 Approved November 24, 2008
 DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth must construct a second sanitary sewer storage basin upstream of the Endion Pump Station to eliminate sanitary sewer overflow from the Lakeside Interceptor.

The city of Duluth desires to develop plans and specifications for the construction of a facility to store sanitary sewer overflows along the Lakeside interceptor, including a parking lot over the basin.

The city desires to hire a consultant engineer to provide the engineering services required for the design and construction administration for the Lakeside interceptor sanitary sewer overflow storage facility - Basin #2.

MSA Professional Services, Inc., in conjunction with Brown and Caldwell, Inc., has submitted a proposal for engineering services in connection with this project.

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.

FURTHER RESOLVED, that the cost of said engineering services, estimated at \$655,725.73, will be funded with \$327,862.87 payable from the Sanitary Sewer Fund 0532, Department/Agency 500, Object 5536, City Project No. 0696SN, and \$327,862.86 funded by the 2005 bonding bill grant monies.

Resolution 08-0696 was unanimously adopted.
 Approved November 24, 2008
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to amend Resolution 08-0188 and City Contract C-20612 with SEH, Inc., for professional engineering services for the replacement of approximately 4,667 linear feet of watermain in Congdon Boulevard and Avondale Street. This amendment increases the contract by \$5,043.50 for a new contract total of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

\$35,643.50, payable from Water Fund 510, Department 500, Organization 1905, Object 5536, City Project No. 0680WA.

Resolution 08-0699 was unanimously adopted.
Approved November 24, 2008
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a release and settlement agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 08-1124-11, with Trinity Development Group, LLC, and the Great American Insurance Company in settlement of disputes arising out of the development of the Coffee Creek project.

Resolution 08-0724 was unanimously adopted.
Approved November 24, 2008
DON NESS, Mayor

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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 7-1/2 Avenue West from Third Street to the alley south of Third Street.

Resolution 08-0692 was unanimously adopted.
Approved November 24, 2008
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Denny Hecker's Automall for the purchase and delivery of two 2009 Dodge Charger marked police squads with options for use by the police department in accordance with state of Minnesota Contract #440044, Release #A-228(5), specifications and pricing in the amount of \$42,420.10, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Department/Agency 015, Organization 2008, Object 5580, Project CE250-V803.

Resolution 08-0704 was unanimously adopted.
Approved November 24, 2008
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Burnsville Automotive, Inc., dba Burnsville Toyota, for the purchase and delivery of four 2009 Toyota Corolla Model 1838 sedans for the police department and fleet services division in accordance with state of Minnesota Contract #440050, Release #A-175(5), specifications and pricing in the amount of \$69,040 plus \$4,487.60 sales tax plus \$500 tax exempt license, registration and title, for a combined total of \$74,027.60, terms net 30, FOB destination, payable from the Capital Equipment Fund 250, Agency 015, Organization 2008, Object 5580, Project No. CE250-V803.

Resolution 08-0709 was unanimously adopted.
Approved November 24, 2008
DON NESS, Mayor

- - -

WHEREAS, the governing bodies of the city of Duluth (city) and Independent School District #709 (district) are mutually interested in assuring public facilities are available for the joint use of district students and the greater Duluth community; and

WHEREAS, financial constraints placed upon the city and the district have prevented either party from fully providing independently the facilities and the services our customers need and expect and in the interest of creating efficiencies, full cooperation between the city and district is necessary; and

WHEREAS, said governing bodies are authorized to enter into agreements with each other under Minnesota Statute Section 471.59, and to undertake mutually those things necessary or convenient to aid and cooperate in the cultivation of the community's health, education and vitality.

NOW, THEREFORE, BE IT RESOLVED, that the city and district agree to the formation of a joint powers steering committee, representative of both governing bodies, to review past governance structures, develop and bring forth a recommendation for a joint use document with a structure to oversee the implementation of joint use initiatives.

Resolution 08-0716 was unanimously adopted.

Approved November 24, 2008

DON NESS, Mayor

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The following resolutions were also considered:

Resolution 08-0701, authorizing third amendment to Skywalk agreement with MP&L, a division of Allete Corporation, pertaining to the MacDonald Building; Resolution 08-0702, authorizing Skywalk agreement with MP&L, a division of Allete Corporation, pertaining to the Fur Storage Building property; Resolution 08-0703, authorizing Skywalk agreement with Von Rock, LLC, pertaining to the 9 West Superior Street Building property; Resolution 08-0705, authorizing Skywalk agreement with Poobah of Minnesota, LLC, pertaining to the 5-7 West Superior Street Building property; Resolution 08-0706, authorizing Skywalk agreement with Poobah of Minnesota, LLC, pertaining to the 3 West Superior Street Building property; Resolution 08-0707, authorizing Skywalk agreement with Von Rock, LLC, pertaining to the 1 West Superior Street Building property; and Resolution 08-0715, authorizing Skywalk agreement with Bruce and Ruth Darling pertaining to the Wirth Building property, were introduced by Councilor Stauber for discussion.

Councilor Krause explained that even though a promise was made by a past administration for this Skywalk, the city should not be going ahead with the construction because of the difficult financial situation of the city.

Resolutions 08-0701, 08-0702, 08-0703, 08-0705, 08-0706, 08-0707 and 08-0715 were adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter in a third amendment to the skywalk agreement pertaining to the MacDonald Building, substantially in the form of that on file in the office of the city clerk as Public Document No. 08-1124-13, with Minnesota Power and Light Company, a division of Allete Corporation, pertaining to the extension of the skywalk through the building to the east, to connect to the tech village.

FURTHER RESOLVED, that any payments received from the owner under said agreement

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

shall be paid to DEDA to reimburse it for costs of constructing said skywalk.

Resolution 08-0701 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved November 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter in a skywalk agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 08-1124-14, with Minnesota Power and Light Company, a division of Allete Corporation, pertaining to the extension of the skywalk through the Fur Storage Building property.

Resolution 08-0702 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved November 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter in a skywalk agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 08-1124-15, with Von Rock, LLC, pertaining to the extension of the skywalk through the 9 West Superior Street property; and

FURTHER RESOLVED, that any payments received from the owner under said agreement shall be paid to DEDA to reimburse it for costs of constructing said skywalk.

Resolution 08-0703 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved November 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter in a skywalk agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 08-1124-16, with Poobah of Minnesota, LLC, pertaining to the extension of the skywalk through the 5-7 West Superior Street property.

Resolution 08-0705 was adopted upon the following vote:

Yeas: Councilors Anderson, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 7

Nays: Councilor Krause -- 1

Abstention: Councilor Cuneo -- 1

Approved November 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter in a skywalk 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 2008

No. 08-1124-17, with Poobah of Minnesota, LLC, pertaining to the extension of the skywalk through the 3 West Superior Street property.

Resolution 08-0706 was adopted upon the following vote:

Yeas: Councilors Anderson, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 7

Nays: Councilor Krause -- 1

Abstention: Councilor Cuneo -- 1

Approved November 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter in a skywalk agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-1124-18, with Von Rock, LLC, pertaining to the extension of the skywalk through the 1 West Superior Street property and to reimburse Von Rock for certain skywalk construction costs in the amount of not to exceed \$35,000, payable from Fund 450, Agency 030, Object 5530.

Resolution 08-0707 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved November 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter in a skywalk agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 08-1124-19, with Bruce and Ruth Darling pertaining to the extension of the skywalk through the Wirth Building property.

Resolution 08-0715 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved November 24, 2008

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city clerk requesting the vacation of part of Oneida Street, Tioga Street, 63rd Avenue East and part of the Oneida Street Alley; and

(b) 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 (FN 08097); and, the city planning commission found that the petitioned right-of-ways are useless, based on the findings that, because these petitioned right-of-ways are undeveloped and will not likely be developed and there will likely be no negative impacts to the surrounding neighborhood; and

(c) The planning commission, at its November 12, 2008, regular meeting, did approve vacating the petitioned right-of-ways; and

(d) That the city council of the city of Duluth approves the vacation of the following and as more particularly described on Public Document No. 08-1124-20:

That part of Oneida Street from the easterly right-of-way line of 63rd Avenue East to the easterly extended property line of Lot 8, Block 64, that part of Tioga Street from the westerly right-of-way line of 63rd Avenue East to the easterly extended property line of Lot 8, Block 57, that part of 63rd Avenue East from the easterly extended right-of-way line of 62nd Avenue East to the southerly extended right-of-way line of Tioga Street, and that part of Oneida Street Alley lying between the east right-of-way line of 63rd Avenue East and a line beginning at the southeast corner of Lot 8, Block 64, and terminating at the southeast corner of Lot 28, Block 64, all located in Lester Park Fourth Division Duluth; and

(e) That the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution together with a plat showing those portions of the right-of-ways to be vacated.

Resolution 08-0720 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Fedora -- 1

Approved November 24, 2008

DON NESS, Mayor

- - -

Resolution 08-0718, approving DSPA's application to DEED for a contamination cleanup development grant for the USX Duluth Works site, was introduced by Councilor Fedora for discussion.

Councilor Krause moved to amend the resolution by adding the phrase "as long as the property is to be used for developing manufacturing-type businesses," which failed for a lack of a second.

Resolution 08-0718 was adopted as follows:

RESOLVED, that the city of Duluth hereby approves the application of the Duluth Seaway Port authority (Public Document No. 08-1124-21) to the state of Minnesota department of employment and economic development for a contamination cleanup development grant related to the proposed cleanup of the Duluth Works site owned by USX.

Resolution 08-0718 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved November 24, 2008

DON NESS, Mayor

- - -

Resolution 08-0686, amending Resolution 89-0323 establishing the Duluth economic development authority, said amendment related to the executive director and other DEDA personnel, was introduced by Councilor Stauber for discussion.

Councilor Fedora stated that although he supports changing the DEDA organization, he is apprehensive of moving DEDA off site, which would limit communication between the mayor and DEDA staff and hinder the mayor's economic development efforts for the city.

President Reinert and Councilor Gilbert voiced concern that DEDA and council accountability and oversight would not remain intact with this potential change.

Resolution 08-0686 failed upon the following vote (Public Document No. 08-1124-12):

Yeas: Councilors Anderson, Cuneo, Krause and Stauber -- 4

Nays: Councilors Fedora, Fosle, Gardner, Gilbert and President Reinert -- 5

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR CUNEO

08-093 - AN ORDINANCE AMENDING SECTIONS 40-4 AND 40-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO LOST, STOLEN OR ABANDONED PROPERTY.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR GILBERT

08-090 (9946) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY IN AN AMOUNT NOT TO EXCEED \$1,500,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

Councilor Stauber explained that he did not support the capital improvement program last year and would not be supporting this ordinance to borrow money for the projects.

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause and President Reinert -- 8

Nays: Councilor Stauber -- 1

- - -

INTRODUCED BY COUNCILOR GILBERT

08-091 (9947) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL WATER UTILITY IN AN AMOUNT NOT TO EXCEED \$220,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

Councilor Stauber explained that he did not support the capital improvement program last year and would not be supporting this ordinance to borrow money for the projects.

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause and President Reinert -- 8

Nays: Councilor Stauber -- 1

- - -

INTRODUCED BY COUNCILOR FOSLE

08-092 (9948) - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTIES ON PARK POINT TO DANIEL AND AMANDA THRALOW FOR \$762,000 AND TO ELWA, LLC, FOR \$471,000.

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

Cathy Podeszwa, representing the Audubon Society, David Poulin, Janet Green, Joan Linski, Dave Johnson and Eric Viken urged the council not to approve this land sale for the following reasons: the land should be held in conservation, the residents of Park Point have been dismissed by the administration; the process to put land into conservancy takes longer than a couple of months; everyone agrees it is worth saving but do not have the tools to buy the land in a timely fashion; this is critical habitat for birds; tourists and residents use it a lot; this action is selling our heritage; the original survey done by the Park Point residents showed that 75 percent of the residents who responded were not in favor of the land sale; it would send a strong negative message that the city is not a good steward of the park land that was dedicated decades ago and the council would be moving away from the comprehensive plan by selling this land.

Councilor Gilbert reviewed that this is another example in Duluth where prime available public land is bought by the rich and used for their own purpose, and now the residents of Duluth who use the land on Park Point during the summer will no longer have access to the lake. He expressed concern that the city has not done their due diligence in getting several qualified bids for the land and not settling with one bid and that the city is selling their long term natural asset for a short term gain.

Councilor Gardner stated that it is unfortunate the city is selling park land that the comprehensive plan has designated as environmentally sensitive and the best way to limit the damage to the land is to not adopt this ordinance.

To questioning from Councilor Anderson, Chief Administrative Officer Lisa Potswald replied that part of the money would go into the undesignated reserve fund that is underfunded and the other part into the general fund to help repair the budget.

President Reinert expressed concern about the lack of bids, whether this is top value in a low real estate market and that the process has not been completed in working toward a solution in keeping the land in conservancy.

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Krause and Stauber -- 6

Nays: Councilors Gardner, Gilbert and President Reinert -- 3

- - -

Councilors Cuneo and Gardner moved to consider Resolution 08-0729, amending Resolution 08-0457 by deleting Parcel B therefrom, at this time, which motion was seconded and unanimously carried.

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

Joan Linski urged the council to pass the resolution and help prevent the damage to the land.

Councilor Fedora explained that challenges for the 2009 city budget will include the possible reduction of local government aid and the decrease in the one percent local option sales tax with consumer spending going down, and this is not the right time to pass a resolution limiting

the city's options for income as the administration needs flexibility to look at different measures to help with the budget.

Councilor Krause stated that the city needs to start preparing for the slow down in the economy which could result in reduced revenue streams from property taxes and sales taxes.

Resolution 08-0729 was adopted as follows:

BY COUNCILORS CUNEO AND GARDNER:

RESOLVED, that Resolution No. 08-0457 is hereby amended by deleting therefrom that portion of the property subject to alienation described as Parcel B on the survey of said property by Ayres Associates dated September 19, 2008.

Resolution 08-0729 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

Nays: Councilors Fedora, Fosle, Krause and Stauber -- 4

Approved November 24, 2008

DON NESS, Mayor

- - -

INTRODUCED BY COUNCILOR CUNEO

08-089 (9949) - AN ORDINANCE PERTAINING TO PAWNBROKERS AND METAL DEALERS; AMENDING SECTION 36-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

The meeting was adjourned at 8:30 p.m.

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

- - -

ORDINANCE NO. 9946

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY IN AN AMOUNT NOT TO EXCEED \$1,500,000 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. The improvement program for the municipal sewer utility includes (i) sanitary sewer rehabilitation; (ii) sanitary sewer relining; (iii)

the sanitary sewer portion of the 2008 SIP projects; and (iv) the sanitary sewer portion of the Trunk Highway 53 project (collectively, the "Project").

1.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal sewer utility, and determines it is necessary to issue General Obligation Sewer Utility Revenue Bonds in the maximum amount of \$1,500,000 for the purpose of paying costs of the Project, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The city has heretofore issued and sold the following: 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 \$130,000; 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 \$890,000; general obligation utilities facility bonds dated September 1, 2002, the sewer utility portion of such bonds now outstanding in the amount of \$1,458,000; general obligation utilities revenue bonds dated December 1, 2002, the sewer utility portion of such bonds now outstanding in the amount of \$1,330,000; 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 \$385,000; general obligation utilities revenue note dated August 25, 2003, the sewer utility portion of such note now outstanding in the amount of \$78,454; general obligation sewer utility revenue note dated December 12, 2003, authorized in the amount of \$1,179,115; general obligation sewer utility revenue bonds dated December 1, 2004, now outstanding in the amount of \$3,405,000; general obligation sewer utility revenue bonds dated December 19, 2005, now outstanding in the amount of \$3,170,000; general obligation utilities revenue bonds dated December 19, 2006, the sewer utility portion of such bonds now outstanding in the amount of \$900,000; general obligation sewer utility revenue note dated July 12, 2007, authorized in the amount of \$2,042,350; general obligation sewer utility revenue bonds dated December 13, 2007, now outstanding in the amount of \$2,120,000; and general obligation water and sewer utility revenue refunding bonds dated December 13, 2007, the sewer utility portion of such bonds now outstanding in the amount of \$1,325,000. 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 December 1, 1998, December 1, 2001, September 1, 2002, December 1, 2002, March 1, 2003, August 25, 2003, December 12, 2003, December 1, 2004, December 19, 2005, December 19, 2006, July 12, 2007, and December 13, 2007.

1.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation sewer utility revenue bonds of the city of Duluth in the maximum amount of \$1,500,000 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.

1.05 The city reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the municipal sewer utility for the payment thereof, when authorized in accordance with law and the City Charter and determined by the city council to be necessary for the improvement of the municipal sewer utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

Section 2. TERMS OF BONDS.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions, and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such manner and at such time or times as shall be deemed in the public interest, all in accordance with the provisions of Minnesota Statutes, chapter 475, and other applicable laws.

Section 3. REVENUES AND ACCOUNTS.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and amounts required to pay the normal, and current operating expenses and to maintain the municipal sewer utility and also to produce net revenues 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: December 28, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause and President Reinert -- 8

Nays: Councilor Stauber -- 1

Passed November 24, 2008
Approved November 24, 2008
DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9947

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL WATER UTILITY IN AN AMOUNT NOT TO EXCEED \$220,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Section 444.075 and Chapter 475 of Minnesota Statutes and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal water utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal water utility pledged for their payment. The improvement program for the municipal water utility includes Arlington pump station improvements (the "Project").

1.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal water utility, and determines that it is necessary to issue general obligation water utility revenue bonds in the maximum amount of \$220,000 for the purpose of paying costs of the Project, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The city has heretofore issued and sold the following: general obligation utilities facility bonds dated September 1, 2002, the water utility portion of such bonds now outstanding in the amount of \$1,232,000; general obligation utilities revenue bonds dated December 1, 2002, the water utility portion of such bonds now outstanding in the amount of \$1,005,000; general obligation water and sewer utilities revenue refunding bonds dated March 1, 2003, the water utility portion of such bonds now outstanding in the amount of \$190,000; general obligation utilities revenue note dated August 25, 2003, the water utility portion of such note now outstanding in the amount of \$682,546; general obligation water utility revenue note dated July 23, 2004, now outstanding in the amount of \$1,538,000; general obligation utilities revenue bonds dated December 19, 2006, the water utility portion of such bonds now outstanding in the amount of \$1,070,000; and general obligation water and sewer utility revenue refunding bonds dated December 13, 2007, the water utility portion of such bonds now outstanding in the amount of

\$950,000. Under the provisions of the ordinances authorizing said bonds and notes, the city reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds and notes dated September 1, 2002, December 1, 2002, March 1, 2003, August 25, 2003, July 23, 2004, December 19, 2006, and December 13, 2007.

1.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation water utility revenue bonds of the city of Duluth in the maximum amount of \$220,000, 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 and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal water utility. Net revenues are defined as sums from time to time within the water utility operating account within the water utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal water utility and to maintain such reasonable reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

1.05 The city reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the municipal water utility for the payment thereof, when authorized in accordance with law and the City Charter and determined by the city council to be necessary for the improvement of the municipal water utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

Section 2. TERMS OF BONDS.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the authority recited in Section 1.01 of this ordinance.

Section 3. REVENUES AND ACCOUNTS.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal water utility at the times and amounts required to pay the normal, reasonable and current operating expenses and to maintain the municipal water utility and also produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

3.02 The city council shall, by further resolution or resolutions, establish appropriate accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. 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 or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the city as to the correctness of the facts recited therein and the action stated therein to have been taken.

Section 5. EFFECTIVE DATE.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 28, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause and President Reinert -- 8

Nays: Councilor Stauber -- 1

Passed November 24, 2008
Approved November 24, 2008
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9948

AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTIES ON PARK POINT TO DANIEL AND AMANDA THRALOW FOR \$762,000 AND TO ELWA, LLC, FOR \$471,000.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to sell and convey the following described parcels of property in St. Louis County, Minnesota, by quit claim deed subject to restrictive covenants and to easements for utilities and avigation, to the named parties who are the highest responsible bidders therefore at the bid prices specified, with the proceeds of said sales to be deposited in General Fund 100-700-1420-4640, and are further authorized to execute all documents necessary with regard to said conveyances.

A. The following property to Daniel and Amanda Thralow for \$762,000. All that part of Parcel Four (4), REFEREE'S PLAT OF MINNESOTA POINT, according to the recorded plat thereof, situate in St. Louis County, Minnesota, and lying between the east line of Minnesota Avenue projected south and easterly in a straight line continued as the same is laid out and established in the recorded plat of OATKA BEACH ADDITION east and southerly of 43rd Street and lying south and westerly of the east line of Block Four (4), OATKA BEACH ADDITION

projected south and easterly in a straight line; and also further described as that part of Parcel Four (4), REFEREE'S PLAT OF MINNESOTA POINT which lies southerly of a line drawn through said parcel parallel with the southerly line of said Parcel Four (4) and distant two hundred (200) feet northerly therefrom.

B. The following property to ELWA LLC for \$471,000. All that part of Parcel Four (4), REFEREE'S PLAT OF MINNESOTA POINT, according to the recorded plat thereof, situate in St. Louis County, Minnesota, lying between the east line of Minnesota Avenue projected south and easterly in a straight line continued as the same is laid out and established in the recorded plat of OATKA BEACH ADDITION east and southerly of 43rd Street and lying south and westerly of the east line of Block Four (4), OATKA BEACH ADDITION projected south and easterly in a straight line; and also further described as that part of Parcel Four (4), REFEREE'S PLAT OF MINNESOTA POINT which lies north of a line drawn through said parcel parallel with the northerly line of said Parcel Four (4) and distant one hundred and twelve and five tenths (112.50) feet southerly therefrom.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: December 28, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Krause and Stauber -- 6

Nays: Councilors Gardner, Gilbert and President Reinert -- 3

Passed November 24, 2008

Approved November 24, 2008

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9949

AN ORDINANCE PERTAINING TO PAWNBROKERS AND METAL DEALERS; AMENDING SECTION 36-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 36-2 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 36-2. License--required.

No person shall engage in the business of pawnbroking or act as a pawnbroker within the city without first having obtained a license to do so. Such license shall authorize the licensee to engage in the pawnbroking business at the premises named on the license. Each premises shall require a separate license. No person shall be eligible for a license unless such person meets the eligibility standards set forth in Minnesota Statutes Section 325J.03(a) or its successor. Licenses shall be nontransferable. Any change in the direct or beneficial ownership of a pawnbroking business, including pawnbroking businesses lawfully operating pursuant to Minnesota Statutes Section 325J.10, shall be reported by the licensee to the clerk and shall require a new license.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Section 2. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: December 28, 2008)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed November 24, 2008
Approved November 24, 2008
DON NESS, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 1, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-1201-02 The following communications regarding proposed increase in water rates and wastewater facilities charges (08-0732R and 08-0733R): (a) Jon Bergstrand; (b) Roger Joppa; (c) John Miltakis and Deb LaFave; (d) Joan Nordin; (e) Richard Paulson. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

08-1201-01 American Indian commission minutes of September 15, 2008, meeting. -- Received

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At this time, 7:02 p.m., the public hearings on the 2009 budget and property tax levy and the capital improvement program began.

Chief Administrative Officer Lisa Potswald gave a brief overview of the budget and levy process and changes from the prior year as compared to the proposed levies already passed by the council.

David Ross, executive director of the Duluth Area Chamber of Commerce, Sterling Harris, representing the Sexual Assault Multi-Disciplinary Team, Eric Nordgren, Rick Popovich and Steve Petro commented that: many business owners are seeing a 20-22 percent increase in their property tax burden; the cumulative effect of increases to property taxes, fees and utility charges is a very ominous challenging threat to businesses; funding for the family crimes unit of the police department affects the ability of community members to report sexual assault; the proposed budget is absolutely appalling in these economic times; there should no increased burdens on the citizens; the city's portion of the property tax bill is the only one showing an increase and property values are decreasing, while assessed values have been increased.

At this time, 7:18 p.m., the hearings were declared closed.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Jay Cole presented information relative to the schools being closed by the school district and noting the public input on this issue.

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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 2008

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

RESOLVED, that the operation budget for the fiscal year January 1, 2009, to December 31, 2009, for Duluth Steam District No. 2 in the amount of \$9,844,008 is hereby approved.

Resolution 08-0725 was unanimously adopted.

Approved December 1, 2008

DON NESS, Mayor

- - -

RESOLVED, that the operation budget for the fiscal year January 1, 2009, to December 31, 2009, in the amount of \$13,539,123 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 08-0726 was unanimously adopted.

Approved December 1, 2008

DON NESS, Mayor

- - -

RESOLVED, that the operation budget for the fiscal year January 1, 2009, to December 31, 2009, in the amount of \$3,446,500 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 08-0727 was unanimously adopted.

Approved December 1, 2008

DON NESS, Mayor

- - -

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 ending August 31, 2009, subject to departmental approvals:

Black Water at Greysolon, LLC (Blackwater at Greysolon), 231 East Superior Street.

Resolution 08-0730 was unanimously adopted.

Approved December 1, 2008

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the parking commission of Shannon Watson-Borden (at large representative) for a term expiring on July 1, 2011, replacing Michael Polzin, is confirmed.

Resolution 08-0719 was unanimously adopted.

Approved December 1, 2008

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness of Laura Sieger to the Duluth legacy endowment fund advisory board for a term expiring on July 12, 2012, replacing Abbot Apter who resigned, is confirmed.

Resolution 08-0722 was unanimously adopted.

Approved December 1, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Monarch Paving Company, a Division of Mathy Construction Company, for the purchase of 1,500 tons of cold mix asphalt to be picked up by December 31, 2008, for the department of public works and utilities in accordance with city specifications and the vendor's quote of \$59.63 per ton, for a total of \$89,445 plus \$5,813.93 sales tax, for a combined total of \$95,258.93, terms net 30, FOB picked up and payable from the following funds:

Amount	Fund	Agency	Organization	Object
\$44,454.17	General Fund 100	500	1920-2550	5222
\$12,701.19	Water Fund 510	500	1945	5222
\$12,701.19	Gas Fund 520	520	1945	5222
\$12,701.19	Sewer Fund 530	500	1945	5222
\$12,701.19	Stormwater Fund 535	500	1945	5222

Resolution 08-0731 was unanimously adopted.
 Approved December 1, 2008
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized to enter into an agreement with St. Louis County providing for city access to secure wireless access for public safety operations; said agreement to be substantially in the form of Public Document No. 08-1201-03 on file in the office of the city clerk.

Resolution 08-0723 was unanimously adopted.
 Approved December 1, 2008
 DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 08-0732, establishing water rates effective with meter readings after February 1, 2009; rescinding all prior inconsistent or conflicting resolutions with respect to such rates; and Resolution 08-0733, establishing the customer charge and user charges for the city's wastewater facilities effective with meter readings after February 1, 2009; rescinding all prior inconsistent or conflicting resolutions with respect to such rates, were introduced by Councilor Fosle.

Councilor Fosle moved to table the two resolutions as per a request from the administration, which motion was seconded and unanimously carried.

- - -

Resolution 08-0746, by Councilor Gardner, approving application to Minnesota's Lake Superior coastal program, was introduced for discussion.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Christine Penny, representing the tree commission, noted to the council that the matching grant will be covered by their partner, NRRRI, in this project. She noted that the information from this project will assist in the stormwater runoff problem.

Resolution 08-0746 was adopted as follows:

BY COUNCILOR GARDNER:

RESOLVED, that the city of Duluth hereby approves the application of the city of Duluth tree commission to Minnesota's Lake Superior coastal program for financial assistance to assess the status of tree cover in the Duluth watershed and to provide planning guidelines that will reduce stormwater flows into Lake Superior.

Resolution 08-0746 was unanimously adopted.

Approved December 1, 2008

DON NESS, Mayor

- - -

Resolution 08-0700, in the matter of the denial of a massage establishment license to Suzy Kotts, d/b/a Yoshiko Sauna, was introduced by Councilor Krause for discussion.

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

Joseph Kiminsky, representing the licensee of this establishment, stated that: while the licensee did have the stated prior convictions in 1988 and 1991, in the 15 years she has operated, she has been rehabilitated and there is no history of arrest for prostitutio; she did not know that she needed a license for a massage establishment and the city over the years never notified her of the need for this license.

Resolution 08-0700 was adopted as follows:

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On November 10, 2008, at 5 p.m. in City Council Chamber, Third Floor, City Hall, the purchasing and licensing committee of the Duluth City Council held a public hearing to consider the denial of a massage establishment license to Suzy Kotts, d/b/a Yoshiko Sauna, at 18 North 21st Avenue West in Duluth, Minnesota, and has submitted its report to the city council as Public Document No. 08-1201-04;

(b) That pursuant to Section 5-42 of the Duluth City Code, the city council is the appellate body for denials of massage establishment licenses;

(c) The findings of fact and conclusions in Public Document No. 08-1201-04 regarding the denial of a massage establishment license to Suzy Kotts, d/b/a Yoshiko Sauna, are hereby adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding the denial of a massage establishment licence is as follows: the decision to deny a massage establishment license to Suzy Kotts, d/b/a Yoshiko Sauna, is hereby affirmed.

Resolution 08-0700 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Gilbert -- 1

Approved December 1, 2008

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR GILBERT

08-094 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2009.

- - -

INTRODUCED BY COUNCILOR GILBERT

08-095 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH SEAWAY PORT AUTHORITY, FOR THE YEAR 2009.

- - -

INTRODUCED BY COUNCILOR GILBERT

08-097 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2009.

- - -

INTRODUCED BY COUNCILOR GILBERT

08-098 - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2009 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

- - -

BY COUNCILOR STAUBER

08-096 - AN ORDINANCE AMENDING SECTION 43-33.4 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO, POINT OF SALE INSPECTIONS.

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

Scott Tompkins felt that it was unfair for selected homeowners to pay for this problem and that all homeowners should be paying for this problem.

- - -

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR CUNEO

08-093 (9950) - AN ORDINANCE AMENDING SECTIONS 40-4 AND 40-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO LOST, STOLEN OR ABANDONED PROPERTY.

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

- - -

COUNCILOR QUESTIONS AND COMMENTS

Councilors discussed general aspects and concerns of the upcoming consent decree.

Councilors discussed aspects of the procedures for the selection of the upcoming council vacancy.

- - -

The meeting was adjourned at 7:55 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9950

AN ORDINANCE AMENDING SECTIONS 40-4 AND 40-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO LOST, STOLEN OR ABANDONED PROPERTY.

The city of Duluth does ordain:

Section 1. That Section 40-4 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 40-4. Abandoned property defined.

For the purposes of this Article, property shall be deemed to be abandoned if it has been in the possession of the city or any officer or agent thereof for more than two months from the date of the mailing of a written notice by the chief of police to such owner to appear and present proof of his or her ownership.

Section 2. That Section 40-6 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 40-6. Sale at public auction after 30 days.

If the owner of any lost, stolen or abandoned property in the possession of the city cannot be found within 30 days after the date of its coming into the possession of the city, the chief of police or any duly authorized person acting under his direction shall cause such property to be sold at public auction to the highest bidder. Notice of the time and place of the holding of such auction shall be published once a week for two consecutive weeks in the official newspaper of the city.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 4, 2009)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 1, 2008
Approved December 1, 2008
DON NESS, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 15, 2008, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

08-1215-01 Duluth Lakewalk Office Phase II, LLC, by Mark D. Pilon, attorney, petition to reclassify Lots 14-17, Block 1, Grant Park Division of Duluth (2900 Piedmont Avenue), from R-1-b to C-1. -- Assessor

08-1215-02 Mission Development, LLC/Arrowhead Commercial Partners, LLC, et al. (seven signatures), by William M. Burns, attorney, petition to reclassify from R-1 to C-5 property north and east of Sundby Road at 2115 Miller Trunk Highway. -- Assessor

08-1215-03 Thomas T. Swanson, et al. (26 signatures), petition to reclassify from M-1 to R-3, property described as follows: Beginning at the point of intersection of the centerline of the alley running east-west between West Superior Street and West First Street, with the east line of North 25th Avenue West; then go north along the east line of North 25th Avenue West to the south line of West First Street; then go east along the south line of West First Street to the west line of North 24th Avenue West; then go south along the west line of North 24th Avenue West to the centerline of said alley; then west along the centerline of said alley to North 25th Avenue West and the point of beginning. -- Assessor

08-1215-04 Minnesota state auditor audit report for Spirit Mountain recreation area authority for the years ended April 30, 2008 and 2007. -- Received

08-1215-05 AFSCME Council 5, Local 66, communication regarding the proposed concession agreement for operation of the Chester Bowl chalet with the Chester Bowl Improvement Club in the amount of \$20,000 (08-0755R) -- Received

08-1215-14 John Ramos communication regarding proposed agreement with Visit Duluth to provide advertising and promotion services to the city of Duluth for the years 2009-2011 (08-0753R). -- Received

08-1215-15 The following communications regarding the proposed 2009 budget and levy (08-097-O and 08-098-O): (a) Jim Anderson; (b) Rebecca Bester; (c) Marlene Cornelius; (d) Heath Hickok; (e) Tom Johns; (f) Kevin Lloyd; (g) Gary Moline; (h) Christine Stemper; (i) Barbara Walcome. -- Received

08-1215-16 The following communications regarding proposed resolution authorizing agreement with Arrowhead Zoological Society, Inc., for zoo operations (08-0764R): (a) AFSCME Council 5, Local 66; (b) Gloria Hovland; (c) Lake Superior Zoological Society; (d) Dena Walczynski-Filipovich; (e) Joy Wiecks. -- Received

- - -

REPORTS FROM OTHER OFFICERS

08-1215-06 Assessor assessment rolls levied to defray the assessable portions of:

(a) Contract No. 5399, eight inch watermain in Ethel Avenue from Springvale Road to 365 feet northerly (assessable amount: \$101,455);

(b) Contract No. 5419, eight inch watermain in Osage Avenue from Page Street to 410 feet north of centerline (assessable amount: \$58,721.47). -- Received

08-1215-07 Clerk applications to the Minnesota gambling control board for exemption from lawful gambling licenses (raffles) from: (a) Rotary Club of Duluth Harbortown, MN, USA on May 6, 2009; (b) St. James School on May 15, 2009. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

08-1215-08 Duluth airport authority: (a) Balance sheet of September 30, 2008; (b) Minutes of October 21, 2008, meeting. -- Received

08-1215-09 Duluth transit authority: (a) Income statement for August 2008; (b) Minutes of September 24, 2008, meeting. -- Received

08-1215-10 Entertainment and convention center authority minutes of November 25, 2008, meeting. -- Received

08-1215-11 Housing and redevelopment authority of Duluth minutes of July 29, 2008, meeting. -- Received

08-1215-12 Tree commission minutes of: (a) September 14; (b) October 21, 2008, meetings. -- Received

08-1215-13 Western Lake Superior Sanitary District 2009 budget. -- Received

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At this time, 7:10 p.m., the public hearing regarding the 2009 alcoholic beverage license fees was called to order.

Ray Rutka asked the council to reconsider the increase in liquor licensee fees because the bar owners are small businesses with large operating costs and with the economic downturn it is harder to make a living.

No one else appeared who wished to be heard and the hearing was closed.

- - -

At this time, 7:15 p.m., the public hearing regarding the Duluth economic development authority reorganization was called to order.

No one appeared who wished to be heard and the hearing was closed.

- - -

At this time, 7:17 p.m., the public hearing regarding the Northstar Aerospace MIF job creation compliance date extension was called to order.

Heidi Timm-Bijold, city business developer, reviewed that Northstar Aerospace received a subsidy from the state through the city and in return had to create new jobs by February 23, 2009. Due to the economic downturn, they are requesting from the city and state that they be given one more year to employ 118 people by February 23, 2010, and that they be allowed to make interest only payments to help their cash flow for the months of January through June 2009 with the principal being fully repayed.

Tom Eagleton, CEO of Northstar Aerospace, reviewed that two of their largest customers have quit building planes which has stopped their operation, but he hopes things will turn around in six months and requested that they make interest only payments during that six month period.

At this time, 7:25 p.m., the hearing was closed and the regular order of business was resumed.

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RESOLUTIONS TABLED

Councilor Fosle moved to remove Resolution 08-0732, establishing water rates effective with meter readings after February 1, 2009; rescinding all prior inconsistent or conflicting resolutions with respect to such rates; and Resolution 08-0733, establishing the customer charge and user charges for the city’s wastewater facilities effective with meter readings after February 1, 2009; rescinding all prior inconsistent or conflicting resolutions with respect to such rates, from the table, which motion was seconded and unanimously carried.

Chief Administrative Officer Lisa Potswald requested the Resolution 08-0732 be returned to the administration, which motion was made, seconded and unanimously carried.

Resolution 08-0733 was adopted as follows:

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 effective with the meter readings after February 1, 2009, 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 February 1, 2009	effective January 1, 2008
Customer charge	\$ 5.89 per month	\$ 5.89 per month
User charge - Class I	\$ 5.02/ccf	\$ 4.67/ccf
User charge - Class II	\$ 6.97/ccf	\$ 6.49/ccf
User charge - Class III	\$ 8.59/ccf	\$ 8.00/ccf
Tate and Lyle	\$13.74/ccf	\$12.79/ccf

BE IT FURTHER RESOLVED, that any prior rate regulations inconsistent or conflicting with this resolution are hereby rescinded.

Resolution 08-0733 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

Nays: Councilors Fedora, Fosle, Krause and Stauber -- 4

Approved December 15, 2008

DON NESS, Mayor

- - -

MOTIONS AND RESOLUTIONS

At this time, President Reinert moved to remove Resolution 08-0773, authorizing city officials to execute an agreement for professional services with International City/ County Management Association, from the agenda at the request of the administration, which motion was seconded and unanimously carried.

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

RESOLVED, that the assessment roll levied to defray the assessable portion of eight inch watermain in Ethel Avenue from Springvale Road to 365 feet northerly (Contract #5399; assessable amount - \$101,455) to be deposited in Fund 325, is hereby confirmed.

Resolution 08-0759 was unanimously adopted.

Approved December 15, 2008

DON NESS, Mayor

- - -

RESOLVED, that the assessment roll levied to defray the assessable portion of eight inch watermain in Osage Avenue from Page Street to 410 feet north of centerline (Contract #5419; assessable amount - \$58,722) to be deposited in Fund 325, is hereby confirmed.

Resolution 08-0760 was unanimously adopted.

Approved December 15, 2008

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On October 1, 2008, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Just Take Action, Inc., d/b/a Fitger's Brewhouse/Red Star Lounge, 600 East Superior Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 08-1215-18;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on December 15, 2008, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 08-1215-18 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Just Take Action, Inc., d/b/a Fitger's Brewhouse/Red Star Lounge, 600 East Superior Street, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows:

The offense occurring on June 19, 2008, is a first offense and a civil penalty of \$500 is imposed. Such fine payable within 30 days of council action.

Resolution 08-0734 was unanimously adopted.

Approved December 15, 2008

DON NESS, Mayor

- - -

CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On October 1, 2008, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

license of Last Chance of Duluth, Inc., d/b/a Last Chance Liquor, 619 East Fourth Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 08-1215-19;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on December 15, 2008, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 08-1215-19 regarding any suspension, revocation and/or civil penalty relating to the off sale intoxicating liquor license of Last Chance of Duluth, Inc., d/b/a Last Chance Liquor, 619 East Fourth Street, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows:

The offense occurring on June 19, 2008, is a first offense and a civil penalty of \$250 is imposed. Such fine payable within 30 days of council action.

Resolution 08-0735 was unanimously adopted.

Approved December 15, 2008

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On October 1, 2008, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of DA Fitzpatrick, Inc., d/b/a Lake Aire Bottle Shoppe, 2530 London Road, and has submitted its report to the city council of the city of Duluth as Public Document No.08-1215-20;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on December 15, 2008, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 08-1215-20 regarding any suspension, revocation and/or civil penalty relating to the off sale intoxicating liquor license of DA Fitzpatrick, Inc., d/b/a Lake Aire Bottle Shoppe, 2530 London Road, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows:

The offense occurring on June 19, 2008, is a first offense and a civil penalty of \$250 is imposed. Such fine payable within 30 days of council action.

Resolution 08-0736 was unanimously adopted.

Approved December 15, 2008

DON NESS, Mayor

- - -

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
Irving Community Association	Score Sports Bar & Grill, 21 North Fourth Avenue West

Resolution 08-0738 was unanimously adopted.

Approved December 15, 2008

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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, 2009, subject to departmental approvals and the payment of sales and property taxes:

JMMP Enterprises, LLC (Kom On Inn), 332 North 57th Avenue West, with John Omundson, president, Pamela Houle, vice president, Michelle Omundson, and Matt Houle, transferred from Dwayne & Kimberly, Inc. (Kom On Inn), same address.

Resolution 08-0743 was unanimously adopted.

Approved December 15, 2008

DON NESS, Mayor

- - -

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 further restrictions:

College of St. Scholastica, 1200 Kenwood Avenue, for January 31, 2009, with Luke Moravec, manager.

Resolution 08-0758 was unanimously adopted.

Approved December 15, 2008

DON NESS, Mayor

- - -

RESOLVED, that the abolishment of building official and vehicle center supervisor, which was approved by the civil service board on November 5, 2008, is hereby approved.

Resolution 08-0747 was unanimously adopted.

Approved December 15, 2008

DON NESS, Mayor

- - -

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 August 5, 2008, and which are filed with the city clerk as Public Document No. 08-1215-21, 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 25 to Pay Range 28. 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 08-0750 was unanimously adopted.

Approved December 15, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of manager, library services, which were approved by the civil service board on December 2, 2008, and which are filed with the city clerk as Public Document No. 08-1215-22, are approved; that said classification shall be subject to the city's collective bargaining agreement with its CDSA employees; and that pay range for said classification shall be ranges 1105 - 1125. 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 08-0761 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Approved December 15, 2008
DON NESS, Mayor

- - -

CITY PROPOSAL:

WHEREAS, the city of Duluth, Lakewood Township, Duluth Township and St. Louis County entered into a joint powers agreement (agreement) dated December 4, 1996, establishing the McQuade public access joint powers board (joint powers board) for the purpose of advancing the concept of a safe harbor at a site defined as McQuade Road; and

WHEREAS, on or about November 18, 2008, the joint powers board met in open session and agreed that it has completed its mission as stated in the agreement; and

WHEREAS, pursuant to Section IX of the agreement the joint powers board has provided notice to the city of Duluth of its intention to initiate the termination process.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby ratifies the McQuade public access joint powers board termination as provided in Section IX of the agreement.

Resolution 08-0740 was unanimously adopted.
Approved December 15, 2008
DON NESS, Mayor

- - -

RESOLVED, by the Duluth City Council that the tax increment financing (TIF) plan for Duluth TIF District No. 2 is hereby amended to delete those properties on file in the office of the city clerk as Public Document No. 08-1215-23.

FURTHER RESOLVED, that said properties are to be included in TIF District No. 22.

FURTHER RESOLVED, that the St. Louis County auditor is hereby requested to remove said properties from TIF District No. 2 and the plan therefor, and include said properties in TIF District No. 22.

Resolution 08-0765 was unanimously adopted.
Approved December 15, 2008
DON NESS, Mayor

- - -

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. 08-1215-24 and under which agreement Visit Duluth will provide advertising and promotion services to the city during the years 2009 through 2011 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 08-0753 was unanimously adopted.
Approved December 15, 2008
DON NESS, Mayor

- - -

RESOLVED, that Resolution 06-0748 amending a contract to Short Elliot Hendrickson, Inc., for professional engineering services be amended to increase the amount by \$32,000 for a new total of \$69,208, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Object 5530, city project nos. 0250TR, 0249TR and 0248TR.

Resolution 08-0748 was unanimously adopted.
Approved December 15, 2008

DON NESS, Mayor

- - -

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. 08-1215-25, with the Duluth transit authority (DTA) to reimburse DTA for having performed on behalf of the city of Duluth certain professional design services related to implementation of the Skyline Parkway corridor management plan, Joshua Avenue project study and citywide intermodal connections as part of the Duluth transit authority's multi-modal Downtown transportation terminal study, in an amount not to exceed \$50,000, payable from the Permanent Improvement Fund 411.

Resolution 08-0762 was unanimously adopted.

Approved December 15, 2008

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Service Electric of Superior, Inc., for the hookup of a 400 KW emergency generator and related electrical work at the Duluth Steam District One plant in accordance with state of Minnesota Contract #437179, Release #E-79(5), specifications and pricing in the amount of \$40,853.20, terms net 30, FOB job site, payable from the Steam Fund 540, Agency 920, Organization 1499, Object 5530.

Resolution 08-0763 was unanimously adopted.

Approved December 15, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a license, substantially in the form of that on file in the office of the city clerk as Public Document No. 08-1215-26, from the Duluth Seaway port authority to allow the city to dispose of snow from street plowing operations on certain authority property at no cost to city.

Resolution 08-0769 was unanimously adopted.

Approved December 15, 2008

DON NESS, Mayor

- - -

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following accessible parking zone is hereby established: on Fourth Avenue East in front of 519 North Fourth Avenue East.

Resolution 08-0739 was unanimously adopted.

Approved December 15, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 08-1215-27, with St. Louis County, by and through its sheriff's office to share the cost of providing a public safety grant coordinator in the amount of \$25,000, to be paid to Fund 110, Department 160 - Police, Division 1610 - administration, Revenue Source 4260.

Resolution 08-0767 was unanimously adopted.

Approved December 15, 2008

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

RESOLVED, that the proper city officials are hereby authorized to enter into two lease agreements, copies of which are on file in the office of the city clerk as Public Document No. 08-1215-28(a) and Public Document No. 08-1215-28(b), with the state of Minnesota department of administration, acting for the benefit of board of trustees of the Minnesota state colleges and universities: Lake Superior College, pursuant to which the city will lease property from the college at its crash fire rescue training school facility for use as a police department fire arms training range and the college will lease from the city property adjacent to the college campus for student, faculty employee and visitor parking.

Resolution 08-0770 was unanimously adopted.

Approved December 15, 2008

DON NESS, Mayor

- - -

BE IT RESOLVED, that the proper city officials are authorized to execute a contract between the city of Duluth and the Duluth Community Garden Program, d/b/a Plant-A-Lot Community Garden Program, substantially the same as that on file with the clerk as Public Document No. 08-1215-29, providing for the use of city property for a community garden program in the amount of \$60, payment to be deposited in Fund 100, 400, 1812, 4644.

Resolution 08-0754 was unanimously adopted.

Approved December 15, 2008

DON NESS, Mayor

- - -

The following resolutions were also considered:

BE IT RESOLVED, that the Duluth City Council hereby declares its intent to purchase the tax-forfeited property described below in St. Louis County, Minnesota.

Lots 1 through 6 and Lots 33 through 37, Block 64, Lester Park Fourth Division.

RESOLVED FURTHER, that the Duluth City Council hereby requests the sale of said property by the St. Louis County Board of Commissioners to the city of Duluth for the purpose of land assemblage with city owned property for the future development of a residential care facility.

Resolution 08-0741 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Fedora -- 1

Approved December 15, 2008

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Minnesota Statute Sec. 161.36, the commissioner of transportation be appointed as agent to the city of Duluth to accept, as its agent, federal aid funds which may be made available for eligible transportation-related projects.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the commissioner of transportation, on file in the office of the city clerk as Public Document No. 08-1215-34, prescribing the terms and conditions of said federal aid participation as set forth and contained in Minnesota department of transportation agency Agreement No. 93807.

Resolution 08-0751 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Yeas: Councilors Anderson, Cuneo, Fedora, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Fosle -- 1

Approved December 15, 2008

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Minnesota Statute Sec. 161.36, the commissioner of transportation be appointed as agent to the city of Duluth to accept, as its agent, federal aid funds which may be made available for eligible transportation-related projects.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the commissioner of transportation, on file in the office of the city clerk as Public Document No. 08-1215-35, prescribing the terms and conditions of said federal aid participation as set forth and contained in Minnesota department of transportation agency Agreement No. 93808.

Resolution 08-0752 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Fosle -- 1

Approved December 15, 2008

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an agreement with ISD No. 709 to provide law enforcement officers in the public schools, said agreement to be substantially in the form of Public Document No. 08-1215-17 on file in the office of the city clerk; payments from the school district to be deposited in Fund 100, Agency 200, Organization 1610, Source 4261.

Resolution 08-0768 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: None -- 0

Abstention: Councilor Fosle -- 1

Approved December 15, 2008

DON NESS, Mayor

- - -

Resolution 08-0755, authorizing a concession agreement for operation of Chester Bowl Chalet with the Chester Bowl Improvement Club in the amount of \$20,000, was introduced by Councilor Anderson for discussion.

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

Billy Menor explained that he has been skiing at Chester Bowl for three years and has benefitted from this program because it is affordable for families to ski there, he has developed leadership skills by becoming a part of the ski patrol at Chester Bowl, he is getting to know people from the entire community and he has become a good skier because of the mentors who are there to teach kids how to ski.

Nancy Gruetzmacher, the treasurer for Chester Bowl Improvement Club, stated that the club does not want to be in the position to have to hire staff, but they are willing to take on the responsibility for the year in hopes that the city will be able to put full time staff back at Chester Bowl next year. She continued by saying that the club has operated in good faith by making snow, testing and maintaining the ski lift, organizing the ski cadet program and have sold 900 passes so far, along with ski rentals. She requested that the council pass the resolution tonight so the program can get started this month.

Mary Gallegos urged the council to approve the contract as her family has been involved with Chester Bowl for ten years and their programs have a long history of family fun.

Resolution 08-0755 was adopted as follows:

BE IT RESOLVED, that the proper city officials are authorized to execute a contract between the city of Duluth and the Chester Bowl Improvement Club, substantially the same as that on file with the clerk as Public Document No. 08-1215-30, for services as a concessionaire operating the Chester Bowl Chalet for compensation of \$20,000; payment to be made from Fund 100, 400, 1812, 5319.

Resolution 08-0755 was unanimously adopted.

Approved December 15, 2008

DON NESS, Mayor

- - -

Resolution 08-0744, approving capital improvement plan and calling for public hearing on intention to issue improvement bonds and reallocation of bond proceeds under Minnesota Statutes, Section 475.521, was introduced by Councilor Gilbert for discussion.

Councilor Stauber explained the resolution states the council is in favor of issuing bonds and the city cannot continue going into debt when the council should be looking for alternatives to bonding for capital improvements.

Resolution 08-0744 was adopted as follows:

BE IT RESOLVED, by the city council (the 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 council has authorized preparation of a capital improvement plan for the years 2009 through 2013 which has been presented to the council in the section entitled capital improvement program bond summary in the document entitled capital improvement budget and five year plan 2009-2013 dated November 2008 (the plan);

(b) The council has caused due notice to be given and has held on December 1, 2008, a public hearing as required by the act, to provide an opportunity for residents to express their views on the plan;

(c) The 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 council finds that the plan is desirable and beneficial to the city and its residents;

(b) The 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 council is considering the issuance of capital improvement bonds under the act and Minnesota Statutes, Chapter 475, in an amount not to exceed \$1,800,000 (the bonds), for the purpose of providing funds for the acquisition and betterment of the following projects: improvements at City Hall including roof and window replacement, elevator improvements and repairs to the courtyard and Second Street vault; improvements to fire department facilities including masonry, overlays and remodeling; and modifications and maintenance of the mechanical systems at the main library; and payment of discount and costs of issuance;

(b) The city hereby expresses its intent to issue the bonds for the projects in an aggregate principal amount not to exceed \$1,800,000, 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 (a) The city previously issued its \$1,240,000 general obligation capital improvement bonds, Series 2007C, dated December 13, 2007 (the Series 2007C bonds). \$80,000 of the proceeds from the Series 2007C bonds allocated to remodeling city offices in City Hall shall be reallocated to improvements to City Hall, including the steam tunnel;

(b) The city will reallocate \$80,000 of the proceeds of the Series 2007C bonds if no petition requesting a vote on the reallocation of the Series 2007C bonds signed by voters equal to five percent of 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.

2.03 The council shall hold a public hearing on the issuance of the bonds and the reallocation of such proceeds of the Series 2007C bonds at 7:00 p.m. on January 26, 2009. 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. 08-1215-31, 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.

2.04 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 08-0744 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause and President Reinert -- 8

Nays: Councilor Stauber -- 1

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Approved December 15, 2008
 DON NESS, Mayor

- - -

Resolution 08-0742, adopting license, permit and fee charges for 2009, was introduced by Councilor Gilbert for discussion.

Councilor Fedora reviewed that there are many new charges listed under the special events licenses, and stated there are many events held during the year that do not provide an economic impact to the city but provide intangible benefits that promote community spirit.

Councilor Fedora moved to amend the resolution by deleting the fees associated with the community event, parade and race category, which motion was seconded for discussion.

Police Chief Gordon Ramsay reviewed that every year the city receives more requests for special events which taxes the police's overtime budget along with city resources and, after working with other city departments and looking at best practices around the Midwest, the city has devised a new fee schedule in which to charge the applicants. He continued saying that if the council wants to sponsor an event then the costs would be minimal.

Mayor Ness explained that with this approach, the city will be able to monitor in-kind services for those events that the city sponsors as a tourism-related event and that no one will be charged for an event, and then the city would also seek reimbursement from the tourism fund for that event. He continued saying that they have narrowed the events that will have city sponsorship and will provide in-kind services to those events associated with a national holiday and the major tourism-related events such as Grandma's Marathon. Mayor Ness stated there will be discretion on other events as they come up on the level of in-kind services.

To questioning from the councilors, Mayor Ness replied that no event will be given a sponsorship without the support of the council. He also replied that an ordinance will be brought forward soon that lays out city policy as it relates to these events, and the fees are brought now as they are part of the larger fee program for 2009. Mayor Ness continued saying that the city would not be charging these fees until the ordinance that has the criteria and standards on how the process will work is in place.

Councilor Fedora withdrew his amendment based on the mayor's statements.

Councilor Stauber reviewed that there are 44 new fees included in this resolution and adding new fees is another way of taxing the citizens for their services.

Resolution 08-0742 was adopted as follows:

RESOLVED, that pursuant to sections 2-15, 2-16, 2-17, 6-3, 6-12, 6-14, 6-36.1, 6-36.3, 6-39, 6-77, 6-79, 6-82, 8-56(d), 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, 45-52, 45-108(a), 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 2009 shall be adopted.

Assessor	
License, Permit, Fee Name	2009 Fee
Abatement processing fee	
Homestead	\$25.00
Valuation	\$50.00
*CD data	\$164.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Assessor	
License, Permit, Fee Name	2009 Fee
*Certificate of real estate value (CRV) duplicate	\$.30
**Land sales quarterly update	\$25.00
*Map	
8.5 x 11; 8.5 x 14; 11 x 17	\$.30
11 x 17 copy of milar	\$2.25
28 x 41	\$6.50
Fax a map copy	\$.30
Member access to internet website	\$240.00
*Ownership search	
Notification	\$26.00
Rezoning	\$26.00
*Property record - full page (free to property owner)	\$.30
**Weekly sales updates to media (per month)	\$50.00
* Change in license, permit or fee **New license, permit or fee	

Attorney	
License, Permit, Fee Name	2009 Fee
Research - after first 1/4 hour (per hour)	\$52.00

Building Safety	
License, Permit, Fee Name	2009 Fee
Backflow prevention testing and registration - annual (per each device)	\$28.00
Board of zoning appeals filing fee	\$120.00
Building moving permit	
Over private property	\$5.00
Over public property	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Building Safety		
License, Permit, Fee Name		2009 Fee
	1,000 square feet or under of area on first floor	\$30.00
	Over 1,000 square feet of area on first floor	\$60.00
Certificate of occupancy		\$5.00
Demolition/razing/wrecking permit		
	For every 100 cubic feet of volume	\$.25
	Minimum fee	\$15.00
Housing Code books		\$9.99
Mobile home permit		
	Inspection fee	\$25.00
	Installation fee	\$50.00
Rental housing (three year licenses)		
	Correction orders, additional copy	\$10.00
	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-
	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 license	\$100.00
	*Reinstating a 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	\$10.00
	Rental license, additional copy	\$10.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Building Safety		
License, Permit, Fee Name		2009 Fee
Second or more reinspection and/or initial inspections requested by owner or authorized agent of a structure		\$150.00
Services rendered pursuant to a contract		as per contract
Voluntary inspection requested by the owner or his or her agent		\$200.00
*Subpoena fee		
Building official		
Additional hourly rate		\$49.00
Initial fee		\$200.00
Code plan review		
Additional hourly rate		\$27.00
Initial fee		\$108.00
Inspector (27)		
Additional hourly rate		\$27.00
Initial fee		\$108.00
Inspector (29)		
Additional hourly rate		\$28.00
Initial fee		\$111.00
Inspector (31)		
Additional hourly rate		\$32.00
Initial fee		\$127.00
Zoning (30)		
Additional hourly rate		\$30.00
Initial fee		\$123.00
Clerical/administrative (129)		
Additional hourly rate		\$25.00
Initial fee		\$101.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Building Safety		
License, Permit, Fee Name		2009 Fee
Clerical/information (126)		
	Additional hourly rate	\$22.00
	Initial fee	\$90.00
Vacant building registration		
	Administrative fee	\$75.00
	Annual fee	\$400.00
Water resource management district		
	Special use permit	\$156.00
	Use permit	\$52.00
	Variance	\$156.00
* Change in license, permit or fee		
**New license, permit or fee		

Citywide		
License, Permit, Fee Name		2009 Fee
*Audio tape/CD-ROM copies (per tape/CD-ROM)		\$8.00
**Community event, parade and race		
Operational fees		
Equipment/services		
	48x48 sign on stand	\$2.00
	Cones, reflective	\$.35
	Locating underground water and electrical lines (per event)	\$50.00
No parking signs		
	Stakes	\$2.00
	Wires	\$2.00
	Pick up truck	\$15.00
	Portable drinking water trough (per event)	\$120.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Citywide	
License, Permit, Fee Name	2009 Fee
Type I ten inch parade stand	\$1.75
Type II eight foot barricade	\$2.50
Water spigot, damage deposit	\$25.00
Personnel, extra services for special events (per hour per city employee) (four hour minimum)	\$50.00
Replacement fees	
Barricade	\$125.00
Barricade Type II	\$379.00
Cone	\$16.95
Electrical panel	\$758.00
Water spigot	\$150.00
Event options	
Pre-event sweeping	
Daytime sweeping	
Less than five miles	\$1,400.00
More than five miles	\$2,700.00
Nighttime sweeping (Downtown, Lincoln Park or West Duluth business areas)	
Less than five miles	\$1,600.00
More than five miles	\$2,400.00
Post-event sweeping	
Additional sidewalk cleaning	\$400.00
Microfilm copies - 18"x24" (per page)	\$3.00
Microfilm copies - 8"x12" (per page)	\$2.00
NSF checks	\$30.00
Photocopies (per page)	\$.25
*Research - per hour (first 1/4 hour free) [excluding attorney and library]	\$17.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Citywide	
License, Permit, Fee Name	2009 Fee
Special assessment incidental fee (per parcel)	\$128.00
Zoning booklets	\$11.00
* Change in license, permit or fee **New license, permit or fee	

Clerk	
License, permit, fee name	2009 Fee
*Adult bookstore - annual	\$33.00
Alcoholic beverage	
*3.2 percent malt liquor	
Late penalty fee	
Off sale	\$28.00
On sale	\$52.00
Off sale - annual	\$144.00
On sale	
Annual	\$443.00
Dancing	
Annual	\$913.00
One day/evening - per day	\$110.00
Seasonal	\$332.00
Temporary - on sale	
First day/evening	\$110.00
Each additional day/evening	\$22.00
Transfer	\$110.00
Intoxicating liquor	
Bottle club - annual	\$300.00
Brewery malt liquor off sale - annual	\$200.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Clerk	
License, permit, fee name	2009 Fee
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	\$110.00
On Sale	\$277.00
Wine	\$83.00
Off sale	
Annual	\$1,500.00
Conditional	\$1,400.00
On sale	
*Additional bar	\$533.00
*Annual	\$3,876.00
Consumption and display permit	
Annual	\$300.00
One day	\$25.00
Culinary class - annual	\$200.00
*Dancing	
Annual	\$1,051.00
One day/evening - per day	\$110.00
Seasonal	\$360.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Clerk		
License, permit, fee name		2009 Fee
	*Special Sunday license - annual	\$166.00
	Theater - annual	\$300.00
	*Temporary - on sale	
	Each additional day/evening	\$138.00
	First day/evening	\$277.00
	*Transfer	
	*Wine - on sale	
	Annual	\$830.00
	Bed and breakfast - annual	\$415.00
	Dancing	
	Annual	\$913.00
	One day/evening - per day	\$110.00
	Seasonal	\$332.00
	Investigations	
	In state	\$500.00
	Outside of state	\$10,000.00
	*Late hours entertainment - annual	\$250.00
	*Permanent expansion	\$110.00
	*Special meeting request fee - per applicant	\$110.00
	*Temporary expansion	
	Each additional day/evening	\$166.00
	First day/evening	\$332.00
	*Banner license	
	Non-skywalk	\$83.00
	Skywalk	\$55.00
	*Bowling alley - annual	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Clerk	
License, permit, fee name	2009 Fee
First lane	\$67.00
Each additional lane	\$22.00
*C-3 shopping center district revision	\$177.00
*Certified copies	\$11.00
Chickens, keeping of - annual	\$10.00
*Cigarette license - annual	\$133.00
Coin operated device - annual	
Card	\$15.00
Location	\$15.00
Prorated monthly fee	\$1.50
Supplier license	\$10.00
*Community event, parade and race	\$100.00
*Concurrent use permit	\$222.00
Council minutes - per meeting	\$5.00
*Council proceedings - annual	\$67.00
*Dance hall	
Annual	\$222.00
One dance event	\$55.00
Emergency wrecker service	
*Annual	\$415.00
Vehicle replacement fee	\$5.00
*Garbage collector license - annual	\$277.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Clerk		
License, permit, fee name		2009 Fee
*Gasoline filling station		
	First hose - annual	\$67.00
	Each additional hose - annual	\$17.00
	Initial service inspection fee	\$110.00
	New construction during license year	\$78.00
*Grooming shop - annual		\$78.00
*Horse and carriage livery service		
	Annual	\$144.00
	Per carriage/per year	\$22.00
	Per horse/per year	\$11.00
Hotel/motel/motor court - annual		
	*First 25 rooms	\$78.00
	Each additional room	\$2.00
*Kennel - annual		
Boarding		
	3-11 animals	\$78.00
	12 or more animals	\$122.00
Breeding		
	2-5 animals	\$78.00
	6-11 animals	\$122.00
	12 or more animals	\$277.00
*Legislative Code		
	CD-ROM	\$138.00
	Hard copy	\$277.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Clerk		
License, permit, fee name		2009 Fee
Supplement (changes only)		
	CD-ROM	\$67.00
	Hard copy	\$138.00
*Massage establishment - annual		\$110.00
*Massage therapist - annual		\$33.00
*Motor vehicle dealer - annual		
	Main lot	\$360.00
	Each additional lot	\$110.00
*Motor vehicle rental - annual		\$250.00
*Nuisance wildlife removal business - annual		\$78.00
Off-leash license, annual		
	Resident, per dog	\$10.00
	Nonresident, per dog	\$20.00
	Private area designation	\$75.00
*Pawnbroker - annual		\$360.00
*Peddler		\$33.00
Pet license - annual		
	Altered	\$8.00
	Animal shelter license	\$3.00
	Duplicate tag	\$3.00
	Maximum exception	\$8.00
	Unaltered	\$8.00
*Pet shop - annual		\$78.00
*Pool, billiard snooker & bumper pool - annual		
	First table	\$67.00
	Each additional table	\$22.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Clerk		
License, permit, fee name		2009 Fee
Precinct finder		\$11.00
Precinct map		\$8.00
*Precious metal dealer - annual		\$360.00
*Recreation/sightseeing rides		
	Annual	\$133.00
	Per vehicle/per year	\$45.00
	Vehicle(s) added during current license year inspection fee (per vehicle)	\$33.00
Resident permit parking - annual		
	Resident	\$5.00
	Visitor	
	Regular	\$2.00
	Special	\$1.00
*Rezoning petition		\$443.00
*Shooting range		
	Annual	\$110.00
	Initial or new construction fees	\$305.00
*Special use permit		
	Filing fee	\$277.00
	Low density planned developments and community unit plans	
	Initial fee	\$553.00
	Plan alteration review	\$222.00
	Plan unit development	\$553.00
Taxicab		
	*Annual	\$144.00
	License transfer	\$5.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Clerk		
License, permit, fee name		2009 Fee
	Rate change registration fee	\$5.00
	*Vehicle permit (per vehicle/per year)	\$17.00
	Vehicle permit transfer	\$5.00
*Vacation petition filing fee		
	Easement	\$443.00
	Vacation - street	
	Less than or equal to 200 feet	\$443.00
	Greater than 200 feet	\$775.00
	*Veterinary hospital - annual	\$78.00
* Change in license, permit or fee		

Duluth Public Arts Commission		
License, permit, fee name		2009 Fee
Duluth logo souvenirs		
	Baseball cap	\$13.50
	Can cooler	\$6.25
	Ceramic mug	\$6.25
	Ceramic mug with coffee package	\$9.50
	Clear footed glass	\$7.25
	Denim shirt	\$26.00
	Fleece	\$36.50
	Golf balls (pkg of 3)	\$7.25
	Golf shirt	\$24.00
	Grey sweatshirt	\$36.50
	Key tag	\$3.00
	Knit cap	\$10.50

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Duluth Public Arts Commission		
License, permit, fee name		2009 Fee
	T-shirt	\$12.50
	Watch	\$26.00
	White sweatshirt	\$23.00

Fire		
License, Permit, Fee Name		2009 Fee
Blasting permit		
	Late fee	\$300.00
	Regular	\$200.00
Bon fire permit		\$125.00
Burning permit		\$50.00
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 (per gross square foot up to 50,000 square feet) (minimum of \$75)	\$.014
	*Business/mercantile occupancy (not otherwise requiring a permit) (per gross square foot up to 50,000 square feet) (minimum of \$75)	\$.014
	*Combustible storage occupancy (per gross square foot up to 50,000 square feet) (minimum of \$75)	\$.014
	*Educational occupancy (per gross square foot up to 50,000 square feet) (minimum of \$75)	\$.014
	*Factory occupancy (per gross square foot up to 50,000 square feet) (minimum of \$75)	\$.014
	*Fire sprinklers or alarms systems (not otherwise requiring a permit) (per gross square foot up to 50,000 square feet) (minimum of \$75)	\$.014
	*Hazardous occupancy (per gross square foot up to 50,000 square feet) (minimum of \$75)	\$.014

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Fire	
License, Permit, Fee Name	2009 Fee
*Institutional occupancy (per gross square foot up to 50,000 square feet) (minimum of \$75)	\$.014
Residential occupancy	
R-1 (same as state fee)	\$100.00
Additional per unit	\$7.00
R-2	\$200.00
Additional per unit	\$20.00
R-3	\$100.00
R-4	\$100.00
Additional per unit	\$20.00
Other fees	
Correction orders, additional copy	\$10.00
Each failure to appear for third and subsequent re-inspections	\$75.00
Inspections made in response to citizen's complaint	-0-
*Issuing new permit in conjunction with issuing a certificate of occupancy	-0-
Per unit investigation fee for each occupied rental unit being operated as rental housing that is no licensed	\$200.00
Reinspection upon request of any owner/occupant whose permit has been suspended or revoked	\$150.00
Reinstating a suspended or revoked permit	\$500.00
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
Services rendered pursuant to a contract	As per contract
Third and subsequent reinspection and/or any initial inspection requested by the owner/occupant of a structure or his/her authorized agent	\$100.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Fire	
License, Permit, Fee Name	2009 Fee
Fire protection systems permit	
Fire pump - includes plan review fee and may be used for replacing existing pumps or when a new pump is added to an existing system	\$500.00
Inspection outside of normal business hours in addition to permit fee (minimum four hours) (per hour)	\$50.00
Permit fees	
Minimum fee	\$50.00
Per contract cost of:	
\$1.00 to \$1,200.00	\$50.00
\$1,201.00 to \$2,000.00 (for the first \$1,200.00)	\$50.00
Plus for each additional \$100.00, or fraction thereof, to and including \$2,000.00	\$3.36
\$2,001.00 to \$25,000.00 (for the first \$2,000.00)	\$76.88
Plus for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00	\$15.40
\$25,001.00 to \$50,000.00 (for the first \$25,000.00)	\$431.08
Plus for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00	\$11.11
\$50,001.00 to \$100,000.00 (for the first \$50,000.00)	\$708.83
Plus for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00	\$7.70
\$100,001.00 to \$500,000.00 (for the first \$100,000.00)	\$1,093.83
Plus for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00	\$6.16
\$500,001.00 to \$1,000,000.00 (for the first \$500,000.00)	\$3,557.83
Plus for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00	\$5.23
\$1,000,000.00 and up (for the first \$1,000,000.00)	\$6,172.83
Plus for each additional \$1,000.00, or fraction thereof	\$4.12

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Fire	
License, Permit, Fee Name	2009 Fee
Plan review fee when submittal documents are required	65% of permit fee
Additional plan review required after start of initial plan review (per hour)	\$50.00
Re-inspection	\$200.00
Sprinkler recall replacement	\$0.00
Fireworks permit, sale of - annual	\$100.00
Fireworks/pyrotechnics display	\$200.00
Fuel tank inspection permit (per tank)	\$50.00
*Change in license, permit or fee	

Library	
License, Permit, Fee Name	2009 Fee
Barcode/security label destruction service charge	\$3.00
Billing service charge	\$3.00
Card replacement	\$3.00
Computer lab rental (4 hours or less)	\$150.00
Conference room rental	
Commercial (per day)	\$150.00
Noncommercial	
Four hours	\$55.00
Per day	\$70.00
Deposit card fee	\$50.00
Extended use fines (per day)	
Adult items	\$.30
Civil service books, DVDs, videos	\$1.00
Juvenile items	\$.10
Toys	\$.50

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Library	
License, Permit, Fee Name	2009 Fee
Story kits, Book Club in a Bag	\$2.00
Gold room rental	
Commercial (per day)	\$150.00
Noncommercial	
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	\$46.50
Each additional family member - annual	\$10.00
*Photocopies/printing (coin-operated machines) - per page	\$.10 - \$.25
Research	
After first 1/2 hour (per hour)	\$25.00
Fax service (per page)	\$1.00
Mailed obituaries (per obituary)	\$2.00
Mailed photocopies (per page)	\$1.00
Revenue recapture notice	\$10.00
Space/room rental equipment fee	\$10.00
Used adult books, sale of - minimum	\$.50
Used children's books, sale of - minimum	\$.50

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Library	
License, Permit, Fee Name	2009 Fee
Used magazines, sale of - minimum	\$.50
* Change in license, permit or fee	

MIS	
License, Permit, Fee Name	2009 Fee
Aerial photo data GIS mapping products	
Custom mapping - minimum charge per hour (minimum one hour)	\$52.00
Standard map products - (scale 1:1200 or 1:2400)	
Up to 11"x17"	\$10.00
17"x22"	\$15.00
22"x34"	\$15.00
34"x44"	\$20.00
35"x90" city map	\$30.00
Additional copies	
Up to 11"x17"	\$2.00
Greater than 11"x17" and up to 34"x44"	\$5.00
Greater than 34"x44"	\$10.00
With 10' contours - up to 34"x44" additional fee	\$10.00
Digital rectified aerial photo, predefined 1/2 Sec. (1/2 mile x 1 mile)	
Black and white or color, PLUS elevation model	\$380.00
Black and white	\$330.00
Color	\$330.00
Elevation model - all derived products, predefined 1/2 Sec. (1/2 mile x 1 mile)	\$230.00
GIS digital data - per layer	\$315.00
Labels - selecting/printing	
Quantity of 500	\$170.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

MIS	
License, Permit, Fee Name	2009 Fee
Quantity of 2,000 or more (plus cost of labels)	\$250.00
Raw imagery - without rectification, PLSS Sec. (1 mile x 1 mile)	\$115.00
Specialized computer information	
Custom query	
*Minimum	\$220.00
*CD-ROM media (minimum fee plus \$10)	\$230.00
Label request fee (minimum fee plus \$20)	\$230.00
*Repeat query	\$26.00
*Standard query	\$55.00
Web-based Query	
Annual maintenance and subscription	\$240.00
*Set up and handling	\$26.00
*Changed license, permit or fee	

Parks and Recreation	
License, Permit, Fee Name	2009 Fee
Athletic field rental	
Heritage Hockey Center - usage fee (per hour)	\$100.00
Lights (per hour/per field)	\$50.00
Per field/per day	\$50.00
Bayfront Festival Park	
*Playfront parking lot - per vehicle during special events	\$4.00
Use of entire park (advance payment required unless otherwise specified)	
Damage/cleanup deposit (refundable if park left in acceptable condition and all fees are paid)	\$2,000.00
Per paid admission on each ticket sold in excess of total daily rental payment (Payment due seven days after event)	\$.50

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Parks and Recreation	
License, Permit, Fee Name	2009 Fee
*Perimeter fencing rental (per event)	\$400.00
Set up/take down fee	\$500.00
Stage rental fee (per day)	\$400.00
Usage fee, per day	
11:00 p.m. termination time additional fee	\$200.00
11:59 p.m. termination time additional fee	\$400.00
Charitable, nonprofit permittee	
Not selling tickets (as determined by <i>www.guidestar.org</i>)	
Annual net revenues of less that \$1 million	\$500.00
Annual net revenues of \$1 million or more	\$1,000.00
Selling tickets	\$500.00 plus \$.50/ticket over 1,000 tickets sold
For profit permittee - selling tickets	\$1,000.00 plus \$.50/ticket over 1,000 tickets sold
Private party, unincorporated permittee	\$250.00
Pursuant to contract approved by council	as established by contract
Vendor space, per day (based on 10'x10' minimum size space) (payment due seven days after event)	\$20.00
Use of Lois M. Paulucci Music Pavilion	
Damage deposit (refundable)	\$100.00
Per hour rental	
40-199 persons	\$50.00
200-499 persons	\$90.00
Building rental	
Alcohol permit	\$90.00
Community recreation center conference room	
Per hour for meetings	\$15.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Parks and Recreation	
License, Permit, Fee Name	2009 Fee
**Use of room every week for two hours (per month)	\$100.00
Damage/cleanup deposit (refundable if building left in acceptable condition)	
With alcohol	\$200.00
Without alcohol	\$100.00
Evenings/weekends/weekdays	
First hour	\$60.00
Per hour, after first	\$25.00
Late Fee	\$25.00
*Use of licensed kitchen	\$65.00
Buskering permit	\$20.00
Electrical panel - damage deposit (refundable if panel returned in acceptable condition)	\$100.00
Golf courses - Lester Park and Enger Park	
*Daily golf ticket - tax included	
18 hole	\$29.00
18 hole junior	\$16.00
18 hole senior	\$25.00
9 hole	\$17.00
9 hole junior	\$11.00
9 hole senior	\$14.00
Fall special	\$17.00
Twilight	\$14.00
*Golf cart rental - tax included	
18 hole	\$29.00
9 hole	\$17.00
Daily private	\$15.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Parks and Recreation		
License, Permit, Fee Name		2009 Fee
	Season private	\$220.00
	Season restricted 5-day	\$550.00
	Season unlimited	\$740.00
Season pass - tax not included		
	**Adult individual	\$650.00
	*Family	\$1,025.00
	**Junior Unlimited (ages 8-18)	\$260.00
	**Patron card	\$160.00
	**Senior Family Dual (ages 62+)	\$760.00
	**Senior Unlimited (ages 62+)	\$440.00
	**Young Adult (ages 19-24)	\$400.00
Keys deposit for buildings and park gates (refundable if keys returned in acceptable condition)		\$20.00
Picnic		
	Permit	
	1 to 150 persons (five hour time slot)	\$50.00
	151 to 300 persons (five hour time slot)	\$90.00
	301+ persons (five hour time slot)	\$105.00
Picnic/wedding - alcohol consumption		\$45.00
*Senior programs (per person)		
	Billiards tournament	\$7.50
	Citywide picnic	\$11.00
	Educational seminars	\$7.50
	Holiday banquet	\$14.50
	Special parties	\$4.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Parks and Recreation	
License, Permit, Fee Name	2009 Fee
Special league - annual	
Sport	
Adult softball (per team)	\$550.00
Bocce (per team)	\$35.00
Classic softball (per team)	\$1,100.00
Flag football (per person)	
With jersey	\$55.00
Without jersey	\$45.00
Team forfeit fee	\$20.00
Team roster late fee (per day)	\$5.00
Special use permit (five hour time slot)	
1 to 150 persons	\$75.00
151 to 300 persons	\$115.00
301+ persons	\$130.00
Van rides - one way	\$1.25
Vendor space - parks (per day)	\$20.00
Washington Center	
Adult open gym (per person/per day)	\$1.00
*Gym rental	
As is (per hour)	\$20.00
Floors covered and use of tables and chairs (per hour)	\$35.00
Wedding	
Permit (five hour time slot)	
1 to 150 persons	\$60.00
151 to 300 persons	\$100.00
301+ persons	\$115.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Parks and Recreation	
License, Permit, Fee Name	2009 Fee
*Rose Garden wedding permit (per hour)	\$50.00
* Change in license, permit or fee **New license, permit or fee	

Planning and Development	
License, Permit, Fee Name	2009 Fee
C-3 and C-5 plan review	\$261.00
Comprehensive plan	
Booklet	\$42.00
Disk format	\$1.00
EAW's (city as RGU)	\$521.00
Grant intermediary fee	
DTED/contamination clean-up	\$261.00
DTED/MIF - city	\$156.00
JOBZ application and monitoring fee (refundable if denied by council)	\$521.00
Platting	
Final review	
Five or less lots	\$104.00
Six to 70 lots	\$182.00
Over 70 lots (per lot)	\$3.00
Preliminary review	\$521.00
Tax forfeit reclassification	\$156.00
Zoning text change	\$261.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Police		
License, Permit, Fee Name		2009 Fee
*Animal shelter		
	Animals sold to institutions	\$215.00
	Daily board fee	\$27.00
	Impound fee	\$38.00
	Nonresident owner surrender	\$90.00
	Quarantine fee	\$160.00
	Rabies deposit	\$27.00
	Resident owner surrender	\$80.00
Closed investigative product/data		
	*Per CD-ROM	\$10.00
	Per image	\$.25
	Per page	\$.25
Crime scene unit audio and video recordings		
	Per tape or CD	\$10.00
	Staff time (per hour)	\$50.00
Criminal history		\$30.00
Deer hunting qualification certificate		\$25.00
Intrusion detection device permit		\$30.00
No parking signs - for construction sites (per sign)		\$3.00
Pawnbroker transaction surcharge (per transaction)		\$2.00
* Change in license, permit or fee		

Public Works and Utilities		
License, Permit, Fee Name		2009 Fee
Aerial photo		
	2002	\$5.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Public Works and Utilities	
License, Permit, Fee Name	2009 Fee
Pre-2002	\$3.00
*Certificate of unpaid bills [<i>Comfort Systems</i>]	\$16.50
Excavation permit	
Base Fee	\$20.00
Inspection Fee	\$50.00
Fire service application	varies from \$642-\$1,533
*Gas furnace comfort policy fee - annual	
Electronic ignition	\$136.00
Standing pilot	\$126.50
*Gas furnace/appliance service	
Midnight - 8:00 a.m.	
First hour OR no show fee	\$100.00
Each additional 15 minutes	\$25.00
Week days	
First 1/2 hour OR no show fee	\$33.00
Each additional 15 minutes	\$16.50
Week nights	
First 1/2 hour OR no show fee	\$49.50
Each additional 15 minutes	\$24.75
Inflow and infiltration noninspection/noncompliance surcharge (per month)	\$250.00
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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Public Works and Utilities	
License, Permit, Fee Name	2009 Fee
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	
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 of building footprint	\$75.00
Each additional 1,000 square feet of building footprint	\$25.00
On parcels equal to or greater than 10,000 square feet	
First 3,000 square feet of building footprint	\$75.00
Each additional 1,000 square feet of building footprint	\$25.00
Miscellaneous Permits	
Driveway crossing or sidewalk repair or replacement (private construction)	
Base fee	\$20.00
Inspection fee	\$50.00
Occupy or obstruct street or sidewalk	
Base fee	\$30.00
Meter revenue loss charge - per meter	
Per day	
Per \$0.25/hour meter	\$1.25
**Per \$0.25/40 minutes meter	\$2.00
**Per \$0.50/15 minutes meter	\$10.00
**Per \$0.50/30 minutes meter	\$20.00
**Per \$0.75/hour meter	\$3.75
Per month	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Public Works and Utilities		
License, Permit, Fee Name		2009 Fee
	Per \$0.25/hour meter	\$25.00
	**Per \$0.25/40 minutes meter	\$40.00
	**Per \$0.50/15 minutes meter	\$200.00
	**Per \$0.50/30 minutes meter	\$400.00
	**Per \$0.75/hour meter	\$75.00
Per week		
	Per \$0.25/hour meter	\$6.25
	**Per \$0.25/40 minutes meter	\$10.00
	**Per \$0.50/15 minutes meter	\$50.00
	**Per \$0.50/30 minutes meter	\$100.00
	**Per \$0.75/hour meter	\$18.75
Per month, per square feet of area		\$0.07
Minimum fee		\$10.00
Yearly		\$200.00
Utility work (franchise holders) - minimum fee		\$40.00
Point of sale inspection fee		
	Sump pump already in place or not required	\$100.00
	Sump pump installation required	\$200.00
Sewer connection - property not previously assessed (per foot of frontage; varies depending on lot size)		\$90.00
Street lighting system utility fee (per month)		\$3.50
Transportation permit		
	Regular	\$10.00
	Seasonal contractor	\$50.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Public Works and Utilities	
License, Permit, Fee Name	2009 Fee
*Violations/noncompliance service charge	
Dispatch of service vehicle	\$49.50
Restoration of service	
Between 12:00 a.m.-8:00 a.m.	\$77.50
Between 4:30 p.m.-12:00 a.m.	\$60.50
Between 8:00 a.m.-4:30 p.m.	\$49.50
Water connection - property not previously assessed (per foot of frontage; varies depending on lot size)	\$90.00
*Water hydrant, use of	\$100.00
Water service tapping fee (one inch or less)	\$380.00
Watercourse obstruction	\$50.00
* Change in license, permit or fee **New license, permit or fee	

Treasurer	
License, Permit, Fee Name	2009 Fee
*Assessment search/certificate	\$14.00
*Delinquent garbage accounts collection fee	\$32.00
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
Parks & Recreation	Adult special league - annual	
	Sport	
	Basketball (per team)	\$565.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Eliminated Fees		
Dept./Div.	License, Permit, Fee Name	Current Fee
	Broomball (per team)	\$940.00
	No check hockey (per team)	\$1,300.00
	Touch football (per team)	\$575.00
	Volleyball (per team)	\$395.00
Bayfront Festival Park		
	Use of entire park (advance payment required unless otherwise specified)	
	Bayfront Blues Festival - facilities charge per ticket	\$3.00
Use of Lois M. Paulucci Music Pavilion		
	Alcohol consumption permit	\$50.00
General recreation		
	3 on 3 basketball (per player) - annual	\$25.00
Chester Bowl		
	Daily pass	\$5.00
	Family season pass (can buy down cost of pass by volunteering with ski operations, concessions, etc.)	\$75.00-\$155.63
	Single season pass (can buy down cost of pass by volunteering with ski operations, concessions, etc.)	\$45.00-\$98.38
	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		
	Season pass - tax included	
	Junior family upgrade to limited	\$978.25

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Eliminated Fees		
Dept./Div.	License, Permit, Fee Name	Current Fee
	Restricted	
	5 day	\$419.25
	Collegiate	\$354.75
	Junior	\$204.25
	Unlimited	\$628.88
	Junior	\$354.75
	Lake Superior Zoological Gardens admission	
	Community celebrations	
	Berlin's Birthday Bash	
	0-12 years old	-0-
	13 years and older	\$9.00
	Easter Egg Hunt	
	0-12 years old	-0-
	13 years and older	\$9.00
	Zoo Year's Eve - all ages	\$4.00
	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	\$3.00
	13 years or older	\$7.50
	School sponsored tours - per person	
	Chaperone	\$7.50
	Grades K-8	\$3.00
	Grades 9-12	\$7.50
	Groups with bona fide special needs or disabilities	
	Chaperone	\$7.50

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Eliminated Fees		
Dept./Div.	License, Permit, Fee Name	Current Fee
	Per person	\$3.00
	Minnesota Zoo member	
	Adult	\$4.50
	Child	\$2.00
	Regular rates	
	0-2 years old	-0-
	3-12 years old	\$4.00
	13 years or older	\$9.00
	<i>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.</i>	
	Picnic	
	Rose Garden (per hour)	\$30.00
	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
	Washington Center	
	Lap swim (per person/per month)	\$25.00
	Open swim (per person/per day)	\$2.00
	Pool rental (per hour/per group)	
	Lifeguard provided	\$30.00
	No lifeguard provided	\$20.00
	Swimming lessons (per person)	\$20.00
Police	Fingerprinting	
	First card	\$10.00

Eliminated Fees		
Dept./Div.	License, Permit, Fee Name	Current Fee
	Each additional card	\$5.00
Public Works and Utilities	Miscellaneous permits - occupy or obstruct street or sidewalk - meter revenue loss charge - per meter <i>[Meter rate/time limit changed 7/21/2008]</i>	
	Per day	
	Per \$0.25/15 minutes meter	\$5.00
	Per \$0.50/hour meter	\$2.50
	Per month	
	Per \$0.25/15 minutes meter	\$100.00
	Per \$0.50/hour meter	\$50.00
	Per week	
	Per \$0.25/15 minutes meter	\$25.00
	Per \$0.50/hour meter	\$12.50

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, 2009.

Resolution 08-0742 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Krause and President Reinert -- 6

Nays: Councilors Fedora, Fosle and Stauber -- 3

Approved December 15, 2008

DON NESS, Mayor

- - -

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 (the act), and Minnesota Statutes, Chapter 475, and the City Charter, the city is authorized to issue its general obligation capital equipment notes to provide funds to purchase capital equipment having an expected useful life at least as long as the term of the capital equipment notes.

Section 2. The council declares the intent of the city to issue capital equipment notes in 2009 in an amount up to \$2,691,000 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 \$84,000.

Section 3. The capital equipment to be financed includes those items of equipment set forth on the list (Public Document No. 08-1215-32), which list of equipment is hereby approved for purchase in 2009.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Section 4. The terms and conditions of the capital equipment notes 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 acquire all or a portion of the capital equipment prior to the issuance of the capital equipment notes and to reimburse expenditures incurred with respect to such capital equipment purchase program with the proceeds of the capital equipment notes.

Resolution 08-0745 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause and President Reinert -- 8

Nays: Councilor Stauber -- 1

Approved December 15, 2008

DON NESS, Mayor

- - -

Resolution 08-0756, distributing the estimated 2009 tourism taxes of hotel-motel and food and beverage, was introduced by Councilor Gilbert for discussion.

Councilor Krause moved to amend the resolution to cap the amount that Visit Duluth will receive from the city in 2009 to be the same as it was in 2008 and not increase it by \$50,000, which motion failed for a lack of a second.

Resolution 08-0756 was adopted as follows:

RESOLVED, that the 2009 tourism taxes of hotel-motel and food and beverage, as estimated, be distributed in the following manner:

	3% Hotel-Motel	1% Hotel-Motel	2.25% 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	\$1,000,400				\$1,000,400
Visit Duluth	\$538,600	\$179,600	\$598,500	\$164,900	\$1,481,600
Historical Union Depot		\$81,500	\$56,100	\$14,200	\$151,800
Lake Superior Zoo Fund		\$19,500	\$381,000	\$144,500	\$545,000
General Fund	\$81,000	\$259,400	\$379,300	\$22,600	\$742,300
Spirit Mountain Debt Service			\$225,000		\$225,000
Debt Service			\$2,295,900	\$744,000	\$3,039,900

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

	3% Hotel-Motel	1% Hotel-Motel	2.25% Food & Beverage	Additional 2.5% Hotel-Motel	TOTAL
Great Lakes Aquarium			\$72,200	\$127,800	\$200,000
TOTALS	\$1,620,000	\$540,000	\$4,050,000	\$1,240,000	\$7,450,000

Resolution 08-0756 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Approved December 15, 2008

DON NESS, Mayor

- - -

Resolution 08-0749, appointing _____ to the Seaway Port authority of Duluth, was introduced by Councilor Gardner for discussion.

Councilor Gardner moved to amend the resolution and insert the name of Norm Vorhees into the blanks in the resolution, which motion was seconded and unanimously carried.

Resolution 08-0749, as amended, was adopted as follows:

BY COUNCILOR GARDNER:

RESOLVED, that the city council hereby appoints Norm Voorhees to the Seaway Port authority of Duluth for a term expiring on October 10, 2014.

Resolution 08-0749, as amended, was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause and President Reinert -- 7

Nays: Councilors Fedora and Stauber -- 2

Approved December 15, 2008

DON NESS, Mayor

- - -

Resolution 08-0775, by Councilor Gardner, establishing a procedure for selecting a candidate to fill the prospective vacancy of the at large council seat of Roger Reinert, was introduced for discussion.

Councilor Krause moved to amend the last sentence of the resolution to read as follows: "If, after two additional ballots, there is still a tie, the council by majority vote, may bring back two candidates from the finalist pool of ten and continue the process provided above until a candidate receives a majority of the voting councilors," which motion was seconded for discussion.

Councilor Krause stated he does not support instant run-off voting, the method he is proposing has worked in the past and councilors should be able to come to a consensus and prevent getting into a situation where there is animosity.

Councilor Gardner stated that the amendment would allow the voting to go on until there was a winner and eliminate a tie breaker option, and instead the original resolution would stop the voting after a period of consecutive ballots and if there was still a tie, the tie breaker would be to use instant run-off voting.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

Councilor Krause's amendment failed upon the following vote:

Yeas: Councilors Fedora, Fosle and Krause -- 3

Nays" Councilors Anderson, Cuneo, Gardner, Gilbert, Stauber and President Reinert -- 6

Resolution 08-0775 was adopted as follows:

BY COUNCILOR GARDNER:

RESOLVED, that the city council desires to establish a procedure for selecting a candidate for the prospective vacancy of the at large council seat currently held by Roger Reinert as follows:

(a) Whereas the city council conducted interviews with applicants on December 11, 2008; after completion of the interviews, each councilor ranked their top ten candidates with #1 receiving ten points, #2 receiving nine points and so on. Councilors submitted their selections to the city clerk by 9:00 a.m. on December 15, 2008. The city clerk then ranked the council selections from one to ten based on points received. Those ten selected candidates will proceed to a second round of interviews. If one or more candidate has tied for the ten position, those candidates shall also proceed to the second round of interviews;

(b) The city council will conduct 15 minute interviews with the top ten candidates selected from the first round of interviews during the week of January 5, 2009. Candidates will be asked 3 questions from the chair and each councilor may ask no more than 1 question (with follow-up if necessary) of each candidate. After the interviews are completed, each council member shall rank their top five candidates with #1 receiving five points, #2 receiving four points and so on. Councilors shall submit their selections to the city clerk no later than 4:30 p.m. on January 9, 2009. The city clerk will then rank the council selections from one to five based on points received. The five remaining candidates will then proceed to a final council vote;

(c) The city council will vote for a finalist from the five remaining candidates at the council meeting held on January 12, 2009. Councilors shall vote for one candidate each. The city clerk shall then tabulate the votes and advise the council of the number of candidates getting one or more vote. If a candidate receives a majority of the votes cast, they are appointed. If not, all candidates receiving one or more votes will advance to a second ballot. Councilors shall then vote on the second ballot, if no candidate receives a majority of the votes cast, the top three candidates (including ties) shall advance to a third ballot. If there are three consecutive identical ballots, the final two candidates will be asked two questions (to be determined by the council). If, after two additional ballots, there is still a tie, the council by majority vote, shall bring back two candidates from the finalist pool of ten and shall proceed to instant runoff voting to select a winner.

Resolution 08-0775 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert and Stauber -- 7

Nays: Councilor Krause

Abstention: President Reinert -- 1

Approved December 15, 2008

DON NESS, Mayor

- - -

Resolution 08-0757, by President Reinert and Councilor Fedora, amending Resolution 89-0323 establishing the Duluth economic development authority, said amendment related to the executive director and other DEDA personnel, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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

Yeas: Councilors Anderson, Gardner, Gilbert, Krause and Stauber -- 5

Nays: Councilors Cuneo, Fedora, Fosle and President Reinert -- 4

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to the loan agreement and a promissory note modification agreement substantially in the form of those on file in the office of the city clerk as public document Nos. 08-1215-33(a) and 08-1215-33(b) with Northstar Machine and Tool, Inc., d.b.a. Northstar Aerospace, increasing by one year the time within which Northstar must create jobs and allowing Northstar to make interest only payments from January 1, 2009, through June 30, 2009.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute an amended grant agreement with the state of Minnesota, such amendments to reflect the amended loan agreement and promissory modification agreement.

Resolution 08-0766 was unanimously adopted.

Approved December 15, 2008

DON NESS, Mayor

- - -

RESOLVED, effective with the water meter readings after February 1, 2009, 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 February 1, 2009, rate \$/CCF	effective November 1, 2006, rate \$/CCF
first 4,000 cubic feet, per 100 cubic feet	\$2.56	\$2.41
next 96,000 cubic feet, per 100 cubic feet	\$1.67	\$1.57
next 900,000 cubic feet, per 100 cubic feet	\$1.39	\$1.31
over 1,000,000 cubic feet, per 100 cubic feet	\$1.15	\$1.08

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 February 1, 2009, \$1.67 per 100 cubic feet.

FIXED CHARGES ARE AS FOLLOWS		
Meter size	effective February 1, 2009	
1 inch & under	\$ 3.50	(no change)
1-1/2 inch	\$ 6.13	(no change)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

FIXED CHARGES ARE AS FOLLOWS		
Meter size	effective February 1, 2009	
2 inch	\$ 10.50	(no change)
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 - \$3.87, effective February 1, 2009.

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 February 1, 2009	Hermantown		Proctor		Rice Lake	
first 100,000 cubic feet, per 100 cubic feet	\$3.04	no change	\$3.40	no change	\$2.70	no change
next 200,000 cubic feet, per 100 cubic feet	\$2.71	no change	\$3.00	no change	\$2.40	no change
over 300,000 cubic feet, per 100 cubic feet	\$2.44	no change	\$2.71	no change	\$2.16	no change

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

Resolution 08-0774 was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

Nays: Councilors Fedora, Fosle, Krause and Stauber -- 4

Approved December 15, 2008

DON NESS, Mayor

- - -

Resolution 08-0764, authorizing execution of an agreement with Arrowhead Zoological Society, Inc., was introduced by Councilor Anderson.

Councilor Anderson moved to table the resolution for a committee meeting, which motion was seconded and carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 8

Nays: Councilor Fedora -- 1

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR FEDORA

08-100 - AN ORDINANCE PERTAINING TO CITY BONDING, AMENDING CHAPTER 20 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO ADD A NEW ARTICLE III.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR GILBERT

08-094 (9951) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2009.

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

- - -

INTRODUCED BY COUNCILOR GILBERT

08-095 (9952) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH SEAWAY PORT AUTHORITY, FOR THE YEAR 2009.

President Reinert reminded the councilors that the St. Louis County attorney sent a letter to the city stating if the Seaway Port authority levy is not passed, the county would take it out of the city's levy and the remedy is a change in state legislation.

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

- - -

INTRODUCED BY COUNCILOR GILBERT

08-097 (9953 and 9954) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2009.

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

Ronald Miller stated he believes that debt is being abused at all levels of government and is responsible for the present financial crisis and now is a good time to start the discussion moving Duluth to a pay-as-you-go fiscal policy and vote to pass the levy which would lower Duluth's municipal indebtedness.

Ted Chura urged the council to support the levy and listen to the police chief for his need for adequate and competent officers to handle the department's workload.

John Haataja, Debbie Isabell Nelson, Michael Schiltz, Sean McGee and Beth Olson urged the council to support the levy for the following reasons: the community and citizens want to improve the safety for the citizens; officers make Duluth a place where people want to come for the beauty of the city and not be afraid of being victimized; community officers are a crucial element to improve community neighborhoods; the sex crime unit of the police department has been gutted and sexual assault and child abuse victims need a better response time from the police department and victims need healing and justice and the city needs to give the police department the resources and tools that they need to do their job.

David Ross, representing the Duluth Area Chamber of Commerce, applauded the efforts that have been initiated bringing accountability to the city's budgeting process, and encouraged the council not to increase taxes so that the business owners who are contributing to the tax base will not be pushed to the limit and have to close down as that would be counterproductive to the city's operations.

Councilor Krause moved to divide the ordinance and vote on the additional levy for additional police and fire salaries and benefits separate from the rest of the budget, which motion was seconded and carried upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Krause and President Reinert -- 6
Nays: Councilors Fedora, Fosle and Stauber -- 3

Councilor Stauber stated that every year when the administration proposes the following year's budget, they short funding public safety, and then the public tells the council the city needs more public safety and the city ends up increasing the levy for that purpose. He questioned why the administration does not give the police department enough money in the budget and reduce the budget for nonessential services so the city's levy is not increased each year.

Councilor Fedora stated the city does not have an income problem but an allocation problem as the city is not spending the money in an efficient manner, and questioned why the city cannot find \$400,000 for additional police costs out of a \$80 million budget instead of passing an additional levy on to the citizens.

Councilor Krause stated that the city is increasing costs to the people who are spending less because of decreased incomes.

Councilor Gilbert moved passage of Ordinance 08-097(a), dealing with everything but police and fire, and the same was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5
Nays: Councilors Fedora, Fosle, Krause and Stauber -- 4

- - -

Councilor Gilbert moved passage of Ordinance 08-097(b), dealing with police and fire, and the same was adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Krause and President Reinert -- 6
Nays: Councilors Fedora, Fosle and Stauber -- 3

- - -

INTRODUCED BY COUNCILOR GILBERT

08-098 (9955) - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2009 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

Councilor Krause moved to amend the sewer fund portion of the ordinance by deleting "\$17,024,000" and inserting "\$15,648,000," which motion failed for a lack of a second.

Councilor Stauber voiced concern that the administration is proposing to spend more money than the city may actually receive in local government aid and local sales tax revenue and questioned where the city stands funding OPEB and increasing the city's reserve fund.

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

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

Nays: Councilors Fedora, Fosle, Krause and Stauber -- 4

- - -

BY COUNCILOR STAUBER

08-096 (9956) - AN ORDINANCE AMENDING SECTION 43-33.4 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO, POINT OF SALE INSPECTIONS.

Councilor Krause moved to amend the subsection 43-33.4(b) of the ordinance to change "plumber" to "plumbing contractor" and add the condition "holds a Class S-C wastewater license and passes a city administered training course," which Councilor Stauber accepted as a friendly amendment.

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

- - -

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

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

- - -

ORDINANCE NO. 9951

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2009.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2009 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, 2009.

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 15, 2008
Approved December 15, 2008
DON NESS, Mayor

- - -

ORDINANCE NO. 9952

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH SEAWAY PORT AUTHORITY, FOR THE YEAR 2009.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2009 for Duluth Seaway Port authority taxing district's operations is hereby determined to be the sum of \$1,033,300 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 469.053, there will be levied for the purpose of providing the Duluth Seaway Port authority special taxing district the sum of \$1,033,300.

Section 3. That this ordinance shall take effect January 1, 2009.

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Stauber and President Reinert -- 8

Nays: Councilor Krause -- 1

Passed December 15, 2008
Approved December 15, 2008
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9953

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2009.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2009 for general operations is hereby determined to be the sum of \$14,687,800 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.

Section 2. There will be levied for the support of the general fund the sum of \$8,270,500.

Section 3. For the pay of debt, there will be levied for the general obligation debt fund the sum of \$5,596,900.

Section 4. For the pay of debt for the Duluth transit bonds, there will be levied the sum of \$85,400.

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 \$422,100.

Section 6. There will be levied for other post employment benefits - retiree insurance, the sum of \$312,900.

Section 7. That this ordinance shall take effect January 1, 2009.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

Nays: Councilors Fedora, Fosle, Krause and Stauber -- 4

Passed December 15, 2008

ATTEST:

Approved December 15, 2008

JEFFREY J. COX, City Clerk

DON NESS, Mayor

- - -

ORDINANCE NO. 9954

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2009.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2009 for general operations is hereby determined to be the sum of \$750,000 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following sections.

Section 2. There will be levied for the support of the general fund the sum of \$350,000 for additional fire department salaries and benefits.

Section 3. There will be levied for the support of the general fund the sum of \$400,000 for additional police department salaries and benefits.

Section 4. That this ordinance shall take effect January 1, 2009.

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

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert, Krause and President Reinert -- 6

Nays: Councilors Fedora, Fosle and Stauber -- 3

Passed December 15, 2008

ATTEST:

Approved December 15, 2008

JEFFREY J. COX, City Clerk

DON NESS, Mayor

- - -

ORDINANCE NO. 9955

AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2009 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, 2009, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

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 chief administrative officer or her 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 approval of the city auditor.

Section 2. That the city auditor be authorized to approve the payments of \$4,835,000 from the gas and steam public utility funds to the general fund for administrative services; comprised of \$4,730,000 or seven percent of the gross revenues of the gas utility fund to the general fund; and \$105,000 from public utility steam fund to the general fund.

Section 3. That the mayor or the chief administrative officer or her 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, 550 in the street light division, 503 in the golf division, and 505 in the parking 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 city auditor 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 2009.

GENERAL FUND		
010	Legislative and executive - total	\$2,776,500

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2008

GENERAL FUND		
015	Public administration - total	18,099,200
020	Community resources - total	5,633,200
100	Fire - total	17,314,500
200	Police total	17,642,900
500	Public works - total	2,032,000
700	Transfers and other functions - total	17,848,700
	Total general fund	\$81,347,000
PUBLIC ENTERPRISE		
503	Golf fund - total	\$1,885,200
505	Parking fund - total	3,843,300
PUBLIC UTILITIES		
510	Water fund - total	\$11,915,900
520	Gas fund - total	71,586,500
530	Sewer fund - total	17,024,000
535	Stormwater fund - total	3,751,200
540	Steam fund - total	5,988,300
550	Street lighting - total	1,185,000

Section 8. That the chief administrative officer or her 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, 2009.

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

Yeas: Councilors Anderson, Cuneo, Gardner, Gilbert and President Reinert -- 5

Nays: Councilors Fedora, Fosle, Krause and Stauber -- 4

Passed December 15, 2008

ATTEST:

Approved December 15, 2008

JEFFREY J. COX, City Clerk

DON NESS, Mayor

- - -

ORDINANCE NO. 9956

BY COUNCILOR STAUBER:

AN ORDINANCE AMENDING SECTION 43-33.4 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO, POINT OF SALE INSPECTIONS.

The city of Duluth does ordain:

Section 1. That Section 43-33.4 of the Duluth City Code, 1959, as amended, be amended as follows:

Sec. 43-33.4. Repairs required at time of sale.

(a) This Section 43-33.4 applies to transfers of ownership of or of possessory rights in property which property is required to be served by the city's public sanitary sewer, as set out in Section 43-16, or its successor;

(b) Upon the signing and acceptance of a legally binding offer to purchase or at least 30 days before a transfer of title to, or the entering into of a contract for deed for, or contract for sale of, real estate, which sale, transfer or contract gives a party other than the seller or transferor a right of possession, whichever occurs first, the seller or transferor shall notify the director of the date of the proposed sale or transfer closing and arrange for a building sewer inspection to determine whether the property requires a sump pump, building sewer trap removal, and footing drain disconnect in order to be in compliance with this Chapter. The seller or transferor shall pay an inspection fee to city in advance of the inspection to defray the city's costs of such inspection in an amount established from time to time by resolution of the city council. No such sale or transfer shall be allowed to occur unless the director has been so notified and the property so inspected, except as provided for in subsection (e) below. The seller or transferor may choose to utilize an inspector other than the city inspector to perform said inspection, providing the inspector is bonded and meets the qualifications as a licensed plumbing contractor in the city of Duluth, holds a Class S-C wastewater license and passes a city administered training course. The private inspector must make certification that the building either needs a sump pump or that there is a sump pump in place and properly functioning or that no sump pump is required. No fee except a nominal filing fee to the city will be required under these circumstances;

(c) If a building sewer contains a house trap and the footing drains are active, the trap shall be removed. If the property requires footing drain disconnections and sump pump installation, it shall be done. The required repairs

shall be completed within 90 days of the date of the inspection referred to in subparagraph (b) above. If they are satisfactorily completed, the director shall issue a POS certificate with regard to footing drain contribution only but such POS certificate shall not evidence total compliance with all of the requirements of Section 43-31(a) above. If the required repairs are not satisfactorily completed within said 90 day period, the owner or customer shall be charged a monthly surcharge of \$250 each month until the repairs are satisfactorily completed;

(d) If, upon the inspection provided for in subparagraph (b) above, the director determines that the property qualifies, the director shall issue or cause to be issued a POS certificate which shall be valid for the proposed sale or transfer related to that inspection and for any other such sale or transfer occurring within 60 days of said proposed sale or transfer unless the director determines in the exercise of his or her discretion that there is sufficient reason to believe that said POS certificate does not accurately represent the existing condition of the property in question;

(e) In the event that the director receives notice of a proposed sale or transfer and request for city inspection which complies with the requirements of subsection (b) above, but the department fails to complete the inspection required by this Section prior to the date of the proposed closing contained in the notice or the date of the actual closing, whichever is later, the director shall provide a temporary waiver of the inspection requirement contained in subsection (b) above which shall be effective until the department shall offer to perform the required inspection on the property during ordinary business hours; the department shall attempt to make reasonable accommodation to the schedule of the acquiring party. Such waiver shall be subject to the acquiring party agreeing in writing to allow representatives of the department to enter upon the property for the purposes of making the inspection and shall be effective only until date the department proposes to make such inspection. Upon the inspection being made under this subsection, the property inspected and the acquiring party shall be subject to the requirements of this Article as if the inspection had been made prior to closing.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 25, 2009)

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

Yeas: Councilors Anderson, Cuneo, Fedora, Fosle, Gardner, Gilbert, Krause, Stauber and President Reinert -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 15, 2008
Approved December 15, 2008
DON NESS, Mayor

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