



CITY  
OF  
DULUTH

**proceedings of the  
CITY COUNCIL  
1997**

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**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, January 6, 1997, 7:30 p.m. in the Lake Superior Ballroom, Duluth Entertainment Convention Center, Duluth, Minnesota.

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

Absent: None -- 0

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0106-02 Jack Curtis, Food-N-Fuel, submitting communication pertaining to sale and regulation of tobacco and tobacco related devices (Ordinance No. 9314). -- Received

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**REPORTS OF OFFICERS**

97-0106-01 Building official submitting appeal of the board of zoning appeals' approval to conditionally allow the installation of a ground sign eight feet four inches tall with a six foot by four foot reader board face with school name and changeable reader board for current school events and information with the stipulation that no portion of the sign be used for commercial advertising on property located at 301 North 40th Avenue West (Ordean Middle School PTSA). -- Committee 2 (planning)

96-0106-03 Purchasing agent submitting emergency orders for: (a) Stabilizing southwest sheave wheel of Aerial Lift Bridge awarded to Oscar J. Boldt Construction; (b) Shaft replacement for Aerial Lift Bridge awarded to Duluth Engineering and Manufacturing Company; (c) Machining of present shaft/sheaves for Aerial Lift Bridge awarded to Duluth Engineering and Manufacturing Company. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

97-0106-04 Board of directors of trusts for Miller-Dwan Hospital and Medical Center minutes of November 21, 1996, meeting. -- Received

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97-0106-05 Duluth airport authority: (a) October 31, 1996, unaudited balance sheet; (b) Minutes of November 12, 1996, meeting. -- Received

97-0106-06 Duluth housing trust fund board: (a) Minutes of October 10, 1996, meeting; (b) November 30, 1996, budget report; (c) November, 1996, CIF loan funding status. -- Received

97-0106-07 Technical design advisory committee for DWMX-D minutes of August 20, 1996, meeting. -- Received

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**REPORTS OF COUNCILORS**

President Prettner Solon announced that the election of officers for 1997 would now take place.

Councilor Hardesty was elected president upon a unanimous vote.

Councilor Wheeler was elected vice president upon a unanimous vote.

Jeffrey Cox was elected secretary upon a unanimous vote.

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

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

Mayor Doty presented the 1997 State of the City Address (Public Document No. 97-0106-08.)

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**MOTIONS AND RESOLUTIONS**

BY COUNCILOR HOGG:

RESOLVED, that Billington Contracting, Inc., be and hereby is awarded a contract for furnishing and delivering 1996/1997 estimated annual requirements of pit run gravel for the water and gas department in accordance with specifications on its low specification bid of \$23,843, terms net 30, FOB destination, \$11,921.50 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227 and \$11,921.50 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 97-0022 was unanimously adopted.

Approved January 6, 1997

GARY L. DOTY, Mayor

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Mayor Doty introduced the 1996 employees of the month and announced the selection of Ellen Kreidler as employee of the year.

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

JEFFREY J. COX, City Clerk

**OFFICIAL PROCEEDINGS**

Special meeting of the Duluth City Council held on Thursday, January 9, 1997, 5:00 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0109-01 Evensen Dodge, Inc., submitting: (a) Official statement; (b) Results of sale pertaining to \$9,525,000 general obligation tax and aid anticipation certificates of indebtedness of 1997. -- Received

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**MOTIONS AND RESOLUTIONS**

Resolution 97-0020, by Councilor Wheeler, providing for the issuance, sale and delivery of \$9,525,000 general obligation tax and aid anticipation certificates of indebtedness of 1997 of the city of Duluth, Minnesota, and prescribing the terms thereof; creating a debt service fund therefor; and awarding the sale thereof, was introduced for discussion.

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

Katherine Kardell, representing Evensen Dodge, Inc., financial consultant on this bond issue, reviewed the results of the bond sale (Public Document No. 97-0109-01(b)). Ms. Kardell stated that there was a large amount of interest in this issue and that the bids came in very favorably.

Councilor Bohlmann expressed concern that the city borrows against state aid and the city's franchise fee, and noted that if those funds are not available, the city would be in serious trouble. She didn't feel it is wise for the city to deficit spend like this, and then have bonds to pay for at the end of the year.

Finance Department Director Todd Torvinen reviewed the cash flow needs of the city throughout the year.

Resolution 97-0020 was adopted as follows:

BY COUNCILOR WHEELER:

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

Section 1. Pursuant to authority contained in Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 475, the City is authorized to issue and sell general obligation tax and aid anticipation certificates of indebtedness in anticipation of collection of taxes and state aids. The City Council has, by Resolution No. 96-1073, adopted December 16, 1996, authorized the issuance and provided for the sale of \$9,525,000 General Obligation Tax and Aid Anticipation Certificates of Indebtedness of 1997 (the "Certificates") in anticipation of collection of taxes levied in the year 1996 for collection during the year 1997 and state aids receivable in 1997 for the general fund of the City (the "General Fund"), which is necessary for timely payment of anticipated expenditures from the General Fund.

Section 2. Pursuant to Minnesota Statutes, Section 475.60, Subdivision 2(9), the City Council has retained an independent financial advisor, has solicited proposals for the sale of the Certificates, and has received an offer from Norwest Investment Services, Inc., of Minneapolis, Minnesota (the "Purchaser"), to purchase the Certificates at a cash price of \$9,550,000 plus accrued interest on the total principal amount from January 22, 1997, to the date of delivery and upon the terms and conditions hereafter specified in this Resolution. The City Council, after due

consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The Mayor and the City Clerk are hereby authorized and directed to execute on the part of the City a contract for the sale of the Certificates in accordance with the Purchaser's proposal, and to acknowledge receipt of the check given as security for the proposal.

Section 3. The City Council hereby declares that the full faith and credit and taxing power of the City and the receipts of General Fund Taxes and State Aids (as hereinafter defined), to the extent necessary to repay the Certificates, shall be and are hereby at all times irrevocably pledged for the payment of principal and interest on the Certificates when due.

Section 4. The Certificates to be issued hereunder shall be dated January 22, 1997, 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, 1997 (the "Maturity Date"). The Certificates shall not be subject to redemption prior to the Maturity Date. The Certificates shall bear interest at the rate of 4.00 percent per annum. Interest on the Certificates shall be payable on the Maturity Date. Interest shall be computed on the basis of a 365-day year. The Bond Registrar designated below shall make the interest payment with respect to the Certificates by check or draft mailed to the registered owners of the Certificates shown on the bond registration records maintained by the Bond Registrar at the close of business on December 15, 1997, whether or not a business day, at such owners' addresses shown on such bond registration records. Principal of each Certificate shall be payable in accordance with and on presentation and surrender of the Certificate to the Bond Registrar.

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

Section 6. A. In order to make the Certificates eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"),

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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

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

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

GENERAL OBLIGATION TAX AND AID ANTICIPATION CERTIFICATE  
OF INDEBTEDNESS OF 1997

R-1 \$9,525,000

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
_____ %	December 31, 1997	January 22, 1997	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: NINE MILLION FIVE HUNDRED TWENTY-FIVE THOUSAND DOLLARS

The City of Duluth, in the County of St. Louis, State of Minnesota (the "City"), acknowledges itself to be indebted and for value received hereby promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, together with interest thereon from the date of original issue specified above until paid at the annual interest rate specified above. Interest shall be computed on the basis of a 365-day year. Interest on this Certificate shall be payable on the maturity date set forth above. This Certificate is not subject to redemption prior to maturity. Both principal and interest are payable at Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, paying agent, authenticating agent and transfer agent (the "Bond Registrar"), or at the office of such successor Bond Registrar as may be designated by the City Council, in coin or currency of the United States of America, which on the date of payment is legal tender for payment of public and private debts. The Bond Registrar shall make the interest payment with respect to this Certificate directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on December 15, 1997, whether or not a business day, at such owner's address shown on said bond registration records. Payment of principal of the Certificates shall be made to the registered owner upon presentation and surrender of this Certificate to the Bond Registrar when due.

This Certificate is issued by the City in the aggregate amount of \$9,525,000, pursuant to the authority contained in Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 475, and pursuant to a resolution adopted by the City Council of the City on January 9, 1997 (the "Resolution").

It is hereby certified and recited that a sum of \$26,964,878 was the amount (i) embraced in the tax levies for the general fund (the "Fund") of the City levied in the year 1996 for collection during the year 1997, and (ii) the estimated amount of state aids receivable by the City for the Fund in the year 1997; and that none of said amounts have at this time been collected and credited to the City's Fund; that heretofore no tax or aid anticipation certificates have been issued against said tax levies or state aids for such Fund; and that this Certificate is issued in anticipation of collection of said taxes and state aids.

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

The Certificates of this series are issued as fully registered certificates without coupons, in the denomination of \$5,000 each, or any integral multiple thereof. Subject to limitations set forth in the Resolution, the City will, at the request of the registered owner, issue one or more new fully registered certificates in the name of the registered owner in the aggregate principal amount equal to the unpaid principal balance of this Certificate, and of like tenor except as to number and principal

amount. Subject to the limitations set forth in the Resolution, this Certificate is transferable by the registered owner hereof upon surrender of this Certificate for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate and deliver, in exchange for this Certificate, one or more new fully registered certificates in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Certificate.

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

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

IN WITNESS WHEREOF, City of Duluth, by its City Council, has caused this Certificate to be executed in its name by the signatures of the Mayor and the City Clerk; and the City has caused this Certificate to be dated the 22nd day of January, 1997.

Date of Authentication: \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION  
Minneapolis, Minnesota

By \_\_\_\_\_  
Authorized Representative

(Certificate as to Legal Opinion)

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by Bond Counsel on the issuance of the General Obligation Tax and Aid Anticipation Certificates of Indebtedness of 1997, of the City of Duluth which includes the within Certificate, dated as of the original date of delivery of and payment for the Certificates.

\_\_\_\_\_  
City Clerk

REGISTRATION CERTIFICATE

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

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
1/22/97	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

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

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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\_\_\_\_\_  
(Name and Address of Assignee)

\_\_\_\_\_  
Social Security or other  
Identifying Number of  
\_\_\_\_\_  
Assignee

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

Dated: \_\_\_\_\_.

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

Signature Guaranteed:

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

Section 14. A. The Treasurer shall credit \$9,525,000, less amounts used to pay a part of the interest cost of the Certificates as allowed by Minnesota Statutes, Section 475.56, from the proceeds of the sale of the Certificates to the General Fund maintained under Section 54 of the City Charter. A special account is hereby created in the Debt Service Fund of the City (the "Debt Service Account"), to be used solely for the payment of interest on and the principal of the Certificates when due. The City Treasurer shall credit to the Debt Service Account all proceeds of the Certificates in excess of \$9,525,000, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, plus the amount of accrued interest paid by the Purchaser. The Treasurer shall pay the costs of issuance of the Certificates from the General Fund.

B. The City Council has appropriated \$250,000 to the Debt Service Account to be utilized in part to pay interest on the Certificates. The City Council hereby certifies that the General Fund Taxes are \$5,097,391, and based on notices from the Minnesota Department of Revenue, the State Aids are reasonably expected to be \$21,867,487.

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. 9324, adopted by the City Council on December 16, 1996 (the "General Fund Taxes"), and the amounts of state aids from Local Government Aid and Homestead and Agricultural Credit Aid receivable from the State of Minnesota for the General Fund in 1997 (the "General Fund State Aids") (collectively the General Fund Taxes and the General Fund State Aids are the "General Fund Taxes and State Aids"), to the extent necessary

to repay the Certificates, shall be and are hereby at all times irrevocably pledged for the payment of principal and interest on the Certificates when due. If the General Fund Taxes and State Aids are insufficient to pay all principal and interest on the Certificates when due, the City Treasurer shall, nevertheless, provide sufficient monies from other funds of the City which are available for that purpose, and such other funds shall be reimbursed from said accounts when the balances therein are sufficient. It is recognized that the City's liability on the Certificates is not limited to the collection of said General Fund Taxes and State Aids, and the City Council covenants and agrees that it will levy upon all taxable property within the City of Duluth, and cause to be extended, assessed and collected, any additional taxes found necessary for full payment of the principal and interest, without limitation as to rate or amount.

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

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

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

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

Section 19. 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Resolution 97-0020 was unanimously adopted.  
Approved January 9, 1997  
GARY L. DOTY, Mayor

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

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 13, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of council meetings held on June 10 and 24, 1996, were unanimously approved.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0113-01 Judy and Kenneth Norstrud submitting petition for extension of six inch water main in Vermilion Road from water main in easement at Claymore Street to Lot 11, Block 13, Greysolon Farms, approximately 500 feet northerly. -- Assessor

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**REPORTS OF OFFICERS**

97-0113-02 Assessor submitting for confirmation the assessment rolls levied to defray the assessable portions of the street improvement program for 1994 (Contract Nos. 7008, 7009, 7011, and 7012). -- Clerk

97-0113-09 Clerk submitting petition verification pertaining to the sale and regulation of tobacco and tobacco related devices (Ordinance No. 9314). -- Received

97-0113-03 Community development and housing division submitting HRA report for the HUD CD-funded housing rehabilitation program for September and October, 1996. -- Received

96-0113-08 Water and gas engineer submitting letter of sufficiency to construct a six inch ductile iron water main in Vermilion Road from water main in easement at Claymore Street to Lot 11, Block 13, Greysolon Farms, approximately 500 feet northerly. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

97-0113-04 Civil service board minutes of: (a) October 1; (b) October 24; (c) November 12, 1996, meetings. -- Received

97-0113-05 Lawful gambling commission minutes of: (a) November 12; (b) November 19, 1996, meetings. -- Received

97-0113-06 SRO housing commission minutes of October 9, 1996, meeting. -- Received

97-0113-07 Technical design advisory committee for the DWMX-D minutes of November 26, 1996, meeting. -- Received

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**OPPORTUNITY FOR CITIZENS TO BE HEARD**

Catherine and Don Letourneau commented on the recent cigarette ordinance and requested that the council review alternatives and proposed compromises to the ordinance. They spoke of the impact the ordinance will have on small businesses and requested strict enforcement to reduce the number of youth who smoke and encouraged the ticketing of youth who are caught smoking on school grounds.

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Thomas Haney requested that attention be directed to a safety issue that has developed for children and handicapped people because of the removal of a loading zone sign at a day care center at 1530 North Seventh Avenue East. He stated that the removal of the sign, which was

requested by a neighbor, has made access to the structure unsafe for children and handicapped individuals who use it.

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Councilor Prettner Solon moved to consider at this time Resolution 97-0046, establishing the Miller-Dwan Medical Center 1997 task force, providing for selection of the members of the task force and describing its duties and responsibilities, which motion was seconded and unanimously carried.

Councilor Hogg stated that because the hospital wants to stay competitive with the changing times in the health care field, the process requested by the board of directors of trusts for the Miller-Dwan Hospital and Medical Center to have a task force study their proposal seems to be the right way to go. Councilor Hogg moved to amend the resolution as follows:

(a) At the end of the third paragraph of the section entitled "Selection and Make-up" add the sentence "Task force members shall choose a chair from their membership who is neither a member of the Miller-Dwan Board of Trusts nor a member of the Duluth City Council";

(b) To the last sentence of the first paragraph of the section entitled "Charge" add the words "to be required, including at least one public hearing"; which motion was seconded for discussion.

Councilor Bohlmann offered as a friendly amendment the addition of a second paragraph to the section entitled "Charge" to read "All meetings shall be held in the city council chambers and the public notified."

Councilor Hales suggested changing Councilor Bohlmann's amendment to eliminate the requirement that all meetings be held in the chambers.

Councilor Rapaich stated that the task force members should decide where the meetings are to be held.

Councilors Talarico and Wheeler stated that they could not vote in favor of all meetings being held in the chambers.

Councilor Bohlmann said that since this is a city council issue, all the meetings should be held in the council chambers where they can be televised by Public Access Community Television (PACT).

Councilor Hogg moved that Councilor Bohlmann's friendly amendment be amended to read "All meetings shall be held in the city council chambers or such other public location as the task force shall determine with proper public notice," which motion was seconded and carried upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Councilor Keenan stated he will support the resolution appointing the task force, but emphasized that it is not a sign that he supports Miller-Dwan becoming a nonprofit corporation. He continued that the council needs to be provided with a lot more data to make the decision regarding the status of Miller-Dwan Hospital.

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

Thomas Haney said there has not been enough public information regarding who will be on this task force and questioned how much public input will be allowed.

Councilor Bohlmann stated she will not support this resolution as she has reviewed the history of the trust that was formed for Miller-Dwan Hospital, and stated she favors leaving the legislation as it is. She reviewed that three years ago a committee was appointed by the mayor to research Miller-Dwan issues and that the conclusion by the committee was to leave the status

as it is. Councilor Bohlmann voiced her concern that Miller-Dwan isn't giving more charitable care to the public. She pointed out that if Miller-Dwan is allowed to go nonprofit, it can be acquired by another nonprofit, with the next step merging with another hospital. She noted that the task force is to be appointed by the mayor and the board, and she believes the board will be biased and receive only information that the hospital wishes it to receive.

Mayor Doty stated that as a member of the board, his position is to represent the city to protect the interests of the people of the city of Duluth.

Councilor Hogg reviewed the resolution passed by the board, pointing out that the resolution sets up a public process to review proposed changes in the Miller-Dwan Hospital structure.

President Hardesty stated it is in the city's best interest to allow this process to occur so that the council and the public can hear the reasons for the change.

Councilor Talarico voiced his support for the task force as this is the best way that information can be given to the council to answer the questions that the council may have, if this is the best path for Miller-Dwan to become competitive. He continued that the council will have the final decision and if the public is not happy they can proceed to set in motion a referendum to vote on the issue.

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

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

Nays: Councilor Bohlmann -- 1

Resolution 97-0046, as amended, was adopted as follows:

BY PRESIDENT HARDESTY:

WHEREAS, the directors of trusts are responsible for the visioning, planning, policy making and operational success of Miller-Dwan Medical Center; and

WHEREAS, the directors of trusts of Miller-Dwan Medical Center have initiated a change in the structure of the Medical Center; and

WHEREAS, the directors of trusts have by unanimous action advised the council that a change in the structure of the Medical Center is necessary to strengthen Miller-Dwan as a regional health care provider, to enable it to be responsive, adaptive and flexible in today's changing and competitive health care environment, and to ensure continued fulfillment of responsibility under the terms of the A.M Miller Trust; and

WHEREAS, this council and directors of trusts have determined to collaborate in the further consideration of the structural change initiated by the directors of trusts to allow for a thorough and deliberative process in response thereto; and

WHEREAS, the directors of trusts earnestly desire to seek enactment of this measure in the 1997 legislative session due to accelerating change in the health care industry.

NOW, THEREFORE, BE IT RESOLVED, that the mayor and chair of the directors of trusts shall appoint a Miller-Dwan Medical Center 1997 task force to be selected and made up as hereinafter set forth and given the charge hereinafter described:

Section and Make-up

The mayor shall appoint two members of the task force, who shall in each case be a member of this council.

The chair of the directors of trusts shall appoint two members of the task force, who shall in each case be one of the directors of trusts.

The mayor and the chair of the directors of trusts shall jointly appoint three members of the task force, none of whom will be members of this council or directors of trusts.

Task force members shall choose a chair from their membership who is neither a member of the Miller-Dwan Board of Trusts nor a member of the Duluth City Council.

Charge

The task force shall hear and consider the specific structural change initiated by the directors of trusts, the reasons therefor and such other information as the task force determines to be required, including at least one public hearing.

All meetings shall be held in the city council chambers or such other public location as the task force shall determine with proper public notice.

The task force shall make a recommendation to the council and to the directors of trusts concerning the change in structure of the Medical Center entity and present that recommendation to this council and the directors of trusts by February 18, 1997.

Resolution 97-0046 was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Approved January 13, 1997

GARY L. DOTY, Mayor

- - -

**RESOLUTION TABLED**

Councilor Bohlmann moved to remove from the table Resolution 96-1049, confirming appointment of Thomas Shefchik replacing Jane Gilbert, Robert Baeumler replacing Patricia Patronas and reappointment of Beth Brown to the planning commission, which motion was seconded and unanimously carried.

Resolution 96-1049 was adopted as follows:

BY COUNCILOR BOHLMANN:

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

PLANNING COMMISSION

Thomas J. Shefchik for a term expiring December 31, 2000, replacing Jane Gilbert; Robert Baeumler for a term expiring December 31, 2000, replacing Patricia Patronas; and Beth Brown for a term expiring December 31, 2000.

Resolution 96-1049 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS**

Resolution 97-0017, by Councilor Wheeler, approving the 1997 DEDA capital projects budget, was introduced for discussion.

Administrative Assistant Nollenberger reviewed the expenditures of the various categories of the DEDA budget.

Councilor Bohlmann reviewed her disapproval of several DEDA projects over the last years, and stated she cannot support this budget because it funds projects she has opposed.

Resolution 97-0017 was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the capital projects budget of the Duluth economic development authority for the year 1997, on file in the office of the city clerk as Public Document No. 97-0113-10, is hereby approved.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Resolution 97-0017 was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 8

Approved January 13, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Henry A. Anderson Agency be and hereby is awarded a contract for furnishing and delivering 1997 boiler insurance for the city of Duluth and the Duluth steam cooperative in accordance with specifications on its low specification bid of \$9,306, terms net 30, FOB destination, payable out of Self Insurance Fund 605, Dept./Agency 036, Organization 1654, Object 5360.

Resolution 97-0011 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Ameridata be and hereby is awarded a contract for furnishing and delivering miscellaneous microcomputer hardware, ordered as needed during a 12 month period, to various city departments and divisions in accordance with specifications and referencing state of Minnesota Contract M-1275, release C-446 pricing, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various; not to exceed the 1997 budget allocation for computer equipment as approved by the budget ordinance for capital equipment.

Resolution 97-0018 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Larson Chev-Olds be and hereby is awarded a contract for furnishing and delivering one all wheel drive mid size cargo van for the fire department in accordance with specifications on its low specification bid of \$19,492.50, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2006, Object V610.

Resolution 97-0023 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Minncor Industries be and hereby is awarded a contract for furnishing and delivering various office furniture for the police department in accordance with specifications on its low specification bid of \$5,566.60, terms net 30, FOB shipping point, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2106, Object B638.

Resolution 97-0024 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

- - -



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the on sale intoxicating liquor license, dancing license and on sale Sunday license, for the period ending August 31, 1997, subject to departmental approvals and the payment of sales and property taxes:

PK & JS, Inc. (Twins Bar), 501 East Fourth Street, transferred from Modern Hotel, Inc. (Twins Bar), same address, with John Schuman, 50 percent stockholder and Pete Kilroy, 50 percent stockholder.

Resolution 97-0026 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale club license for the period ending August 31, 1997, for issuance by the liquor control commissioner, and subject to departmental approvals and the payment of sales and property taxes:

Kitchi Gammi Club, Inc. (Kitchi Gammi Club), 831 East Superior Street.

Resolution 97-0027 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 1997, subject to departmental approvals and the payment of sales and property taxes:

Grandma's Rochester, Inc. (Grandma's Saloon & Deli), 1600 Miller Trunk Highway, transferred from Kitchi Gammi Club (Kitchi Gammi Club), 831 East Superior Street, with Grandma's Inc., 100 percent stockholder, Andy Borg, Jr., CEO, Donald Bleau, president, Joseph Bennett, vice president, Brian Daugherty, vice president, Ronald L. Anderson, secretary, and Paul Javorina, treasurer.

Resolution 97-0028 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that St. Joseph Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering one 2.25 cubic yard, 4-wheel drive loader for the street maintenance division in accordance with specifications on its low specification bid of \$84,484.32, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2007, Object V706.

Resolution 97-0032 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of city engineer, which were approved by the civil service board on March 7, 1995, and which are filed with the city clerk as Public Document No. 97-0113-11, are approved. This classification remains represented by the supervisory unit and compensated at Range 1140, \$4,638 to \$5,651 per month.

Resolution 97-0002 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of water plant operator A, which were approved by the civil service board on April 4, 1995, and which are filed with the city clerk as Public Document No. 97-0113-12, are approved. This classification remains represented by the basic unit. The pay rate was increased from Range 28 to Range 31, \$2,746 to \$3,265 per month.

Resolution 97-0003 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of water plant operator B, which were approved by the civil service board on April 4, 1995, and which are filed with the city clerk as Public Document No. 97-0113-13, are approved. This classification remains represented by the basic unit and compensated at Range 28, \$2,424 to \$2,869 per month.

Resolution 97-0004 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0005, by Councilor Bohlmann, confirming appointment of Roger Johnson to the citywide citizens advisory committee replacing Joan Barrett, was introduced for discussion.

Councilor Bohlmann moved to amend the resolution to extend the term to the year "2000," which motion was seconded and carried upon a unanimous vote.

Resolution 97-0005, as amended, was adopted as follows:

BY COUNCILOR BOHLMANN:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

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

Resolution 97-0005, as amended, was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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supplemental agreement between the city and Local 101, International Association of Fire fighters; said agreement to be in substantially the same form and containing substantially the same terms and conditions as that contract on file with the city clerk as Public Document No. 97-0113-14.

Resolution 97-0030 was unanimously adopted.  
 Approved January 13, 1997  
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

HOUSING AND REDEVELOPMENT AUTHORITY

Edith Bubli for a term expiring January 7, 2002.  
 Resolution 97-0031 was unanimously adopted.  
 Approved January 13, 1997  
 GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to reclassify from conservation to nonconservation and to offer for sale the following tax forfeited parcels now withheld from sale in conservation:

<u>File No.</u>	<u>Applicant</u>	<u>Legal Description</u>	<u>Location</u>
96158 Avenue West Street	Rick Miller	Lots 22 and 23, Block 169 West Duluth Seventh Division (10-4530-460)	west side of 52nd north of Wadena  (Ramsey)
96159 Street b/w	Roger Bergh	Lot 6, Block 71, Harrison's Brookdale Division (10-2110-9460)	lower side of Tenth  22nd Avenue West and Voss Avenue (Lincoln Park)
96166	Leon Sulerud	Lot 10, Block 128, Meyer's Rearrangement Second Division (10-1190-430)	west side of 19th Avenue West b/w Fourth and Fifth Streets (Lincoln Park)
96168 Street Stroll	Dan King	Lands in the city of Duluth T50 R14 Section 21, part of  NE¼ of SW¼ (10-2710-5980) described as beginning at center of Section 21 thence W 40 rods thence S 40 rods thence E 30 rods thence N 16 rods thence E 10 rods thence N 24 rods to place	north side of Palm b/w Blackman and  Avenues (Duluth Heights)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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of beginning except .50 ac. for road and except 2.03 ac. in NE corner and except 2.25 ac. in NW corner and except highway right-of-way 2.24 ac.

96169            Raymond E. Wick    easterly 300 feet of southerly 1/2 of the NW 1/4 of the SE 1/4 of the NE 1/4 T5ON R14W Section 30 except sanitary sewer easement.            east side of Chambersburg Street, 650 feet north of Leonard Street. (Duluth Heights)

Resolution 97-0008 was unanimously adopted.  
Approved January 13, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the westerly one foot of First Avenue East adjacent 921 North First Avenue East, legally described as the westerly one foot of First Avenue East adjacent the northerly 65 feet of the southerly 75 feet of Lot 16, Block 130, Duluth Proper Third Division; and

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

WHEREAS, the city planning commission approved, unanimously, the partial street vacation petition at its December 10, 1996, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of the westerly one foot of First Avenue East adjacent the northerly 65 feet of the southerly 75 feet of Lot 16, Block 130, Duluth Proper Third Division, described above, and as more particularly described on Public Document No. 97-0113-16;

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

Resolution 97-0009 was unanimously adopted.  
Approved January 13, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of alley in Block 32, Duluth Heights, First Division legally described as the alley in Block 32, Duluth Heights, First Division; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its December 10, 1996, meeting.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of the alley in Block 32, Duluth Heights, First Division described above, and as more particularly described on Public Document No. 97-0113-17.

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

Resolution 97-0010 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Geac Computers, Inc., be and hereby is awarded a contract for furnishing computer software and hardware maintenance for the library's circulation control system for the library department in accordance with specifications on its low specification bid of \$43,698.72, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 300, Organization 1702, Object 5309.

Resolution 97-0014 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that Gary Van Beusekom be and hereby is awarded a contract for furnishing independent monitoring services for the job training programs division in accordance with specifications on its low specifications bid of \$11,520 and being the only bidder, terms net 30, FOB job site, payable out of Fund No. 268, Budget Item Nos. 6246, 6253, 6255, and 6256; Fund No. 269, Budget Item Nos. 6274 and 6275; and Fund No. 275, Budget Item No. 6004.

FURTHER RESOLVED, a copy of this agreement shall be on file in the city clerk's office as Public Document No. 97-0113-18.

Resolution 97-0001 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to accept Ordean Foundation funding in the amount of \$10,000. This money will be used to provide supportive services to low income individuals through the growth and achievement program (G.A.P.). This funding is available from January 1, 1997, through January 1, 1998. A copy of this grant agreement shall be on file in the city clerk's office as Public Document No. 97-0113-19.

FURTHER RESOLVED, that monies received under this grant agreement shall be deposited in Fund No. 269, Budget Item No. 6294.

Resolution 97-0006 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

WHEREAS, the proper city officers are hereby authorized to execute an agreement with the Duluth Community Action Program, Inc. (CAP), under which CAP would administer an

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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emergency energy assistance program using \$16,086 in funds that the city will receive from the Ordean Foundation for such purpose, which agreement is on file in the office of the city clerk as Public Document No. 97-0113-20; payment by the city will be made from the general fund, other functions, Agency 015, Miscellaneous 2020.

Resolution 97-0007 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

WHEREAS, it appears that it may be necessary that a six inch ductile iron water main be constructed in Vermilion Road, from water main in easement at Claymore Street to Lot 11, Block 13, Greysolon Farms, approximately 500 feet northerly;

NOW, THEREFORE, BE IT RESOLVED, that it is the intention of this council to cause construction of said water main, provided that further investigation demonstrates that such action be taken.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said water main project, the mayor shall cause to be prepared, plans and specifications for said project and do those further things prescribed by Section 62 of the Charter.

Resolution 97-0037 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that The Green House be and hereby is awarded a contract for furnishing and delivering approximately 650 flats (7,800) of flowers for city gardens for the street/park maintenance division in accordance with specifications on its low specification bid of \$7,199.40, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5225.

Resolution 97-0015 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth's armory facility has recently been determined to be unsuitable for the maintenance and storage of vehicles and equipment and supplies, as required by the street and park maintenance division; and

WHEREAS, city officials will require a period of time to determine whether it is feasible to repair or replace the existing facilities at the armory; and

WHEREAS, the city has determined that space is available at the former Duluth Dodge Oldsmobile site (1400 London Road), now owned by Tracy Nelson, to accommodate on a temporary basis the needs of the street and park maintenance division for maintenance and storage of vehicles and equipment and supplies.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to enter into the lease agreement, on file in the office of the city clerk as Public Document No. 97-0113-21, providing rental of space at the former Duluth Dodge Oldsmobile site (1400 London Road), payment for which will be in an amount not to exceed \$5,300 per month and will

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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be taken from Fund 100 500 1920 5412 (building rental).

Resolution 97-0019 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, M ayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute a Bayfront property snow storage agreement with the Duluth economic development authority, which agreement is on file with the city clerk as Public Document No. 97-0113-22.

Resolution 97-0039 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that Stratus Computer be and hereby is awarded a contract for providing 12 months of maintenance covering computer hardware for the police department in accordance with specifications on its low specification bid of \$21,252, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5404.

Resolution 97-0012 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that E/S Support Services be and hereby is awarded a contract for furnishing computer hardware and software maintenance during 1997 for the police department in accordance with specifications on its proposal of \$14,118, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5404.

Resolution 97-0013 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that St. Luke's Hospital be and hereby is awarded a contract for furnishing physical exams for safety officers for the police department in accordance with specifications on its low specification bid of \$13,000, terms net 30, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5305.

Resolution 97-0016 was unanimously adopted.

Approved January 13, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that Salo Trucking Company be and hereby is awarded a contract for demolition of nine structures for the building inspection division in accordance with specifications on its low specification bid of \$47,850, terms net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 100, Organization 1504, Object 5453.

Resolution 97-0025 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Approved January 13, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking 2:00 a.m. to 6:00 a.m. November 1 through May 31 zone is hereby established: both sides of Mike Colalillo Drive from 46th Avenue West to 53rd Avenue West.

Resolution 97-0033 was unanimously adopted.  
Approved January 13, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

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

- in front of 5713 Grand Avenue;
- in front of 2628 West Second Street;
- in front of 121 North Ninth Avenue East;
- in front of 1812 East Sixth Street;
- in front of 2811 Jefferson Street.

Resolution 97-0034 was unanimously adopted.  
Approved January 13, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with E/S Support Services to provide certain consulting services in connection with the domestic violence response project, which agreement is on file in the office of the city clerk as Public Document No. 97-0113-15, at a cost to the city of \$1,400, which shall be paid from General Fund 100-200-2438-5310.

Resolution 97-0036 was unanimously adopted.  
Approved January 13, 1997  
GARY L. DOTY, Mayor

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The meeting was adjourned at 9:50 p.m.

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



**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, January 27, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: Councilor Keenan -- 1

- - -

The minutes of the council meeting held on July 8, 1996, was unanimously approved.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0127-01 The following submitting letters pertaining to a proposed special use permit for a new shelter at 20th Avenue East and Seventh Street (97-0075R): (a) Marilyn Anderson; (b) Dennis G. Arras; (c) Monica Roth Day and John Day; (d) Mary Carr Ellis Ekker (supported by 92 signatures); (e) Patricia J. Eng; (f) Jamie Glitsos; (g) Connie Herberg (supported by 82 signatures); (h) Thomas F. Muehlberger; (i) Alexis Pogorelskin; (j) Rebecca J. and James A. Skurla; (k) Randy Viita (supported by four signatures); (l) Randy Jon Virta; (m) Women's Coalition; (n) YWCA youth program director. -- Received

97-0127-26 The following submitting letters pertaining to Lambert rezoning and special use permit requests (97-0073R and 97-001-O): (a) Mary Carr; (b) M.H. Kearns; (c) Norma E. Swanbum. -- Received

97-0127-27 The following submitting letters pertaining to Harry BZA appeal (97-0081R): (a) Craig J. Cullen; (b) Robert and Theresa Harry. -- Received

97-0127-28 The following submitting letters pertaining to Copeland Community Center youth recreation program (97-0084R): (a) Julie Morgan; (b) Jim Pierre. -- Received

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**REPORTS OF OFFICERS**

97-0127-02 Assessor submitting notice for confirmation of assessment roll levied to defray the assessable portion of sanitary sewer in Ethel Avenue from Springvale Road to 260 feet northerly (Contract No. 5286 - \$28,325.15). -- Clerk

97-0127-03 Clerk submitting applications to the Minnesota gambling control board for exemption from lawful gambling licenses from: (a) St. Benedict's Church (bingo) on: (1) January 13; (2) February 1, 1997; (b) Minnesota Senior Federation - Northeast Coalition (raffle) on May 28, 1997. -- Received

97-0127-04 Engineering division submitting January, 1997, project status report. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

97-0127-05 Board of zoning appeals minutes of November 26, 1997, meeting. -- Received

97-0127-07 Duluth housing trust fund board minutes of December 12, 1996, meeting. -- Received

97-0127-08 Duluth transit authority: (a) Minutes of December 16, 1996, board of directors meeting; (b) Minutes of December 17, 1996, special board of directors meeting; (c) November, 1996, financial statement summary; (d) November, 1996, income statement. -- Received

97-0127-06 Heritage preservation commission minutes of November 20, 1996, meeting. -- Received

97-0127-09 Planning commission minutes of: (a) November 12; (b) December 10, 1996, meetings. -- Received

97-0127-10 Seaway Port authority of Duluth: (a) October 31, 1966, financial statements and balance sheets; (b) Minutes of November 21, 1996, meeting. -- Received

97-0127-11 Special assessment board minutes of December 12, 1996, meeting. -- Received

97-0127-12 Technical design advisory committee for DWMX-D minutes of December 17, 1996, meeting. -- Received

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**OPPORTUNITY FOR CITIZENS TO BE HEARD**

Jim Van Dell commented on the Minnesota Ecosystems Recovery Project.

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Pierre Buchanan commented on domestic violence.

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**RESOLUTION TABLED**

Councilor Talarico moved to remove from the table Resolution 96-1068, amending Resolution 96-0257 to increase Contract No. C17247-96 awarded to Strgar-Roscoe-Fausch, Inc., for providing additional professional traffic engineering services for additional traffic studies and plan revisions for intersection improvements on Woodland Avenue between Fourth Street and St. Marie Street, to increase the amount by \$41,700 for a new total of \$107,450, which motion was seconded and unanimously carried.

Dick Larson, public works director, stated that an engineering study found a need for safety improvements on Woodland Avenue in connection with other improvements on 21st Avenue East, and recommended that Woodland Avenue between Fourth Street and St. Marie Street be improved primarily in the intersection's width of street and curve radiuses, and replacing traffic signals at Clover and St. Marie streets. The project will also interconnect with traffic signals on 21st Avenue East for improved traffic flow on 21st Avenue East and Woodland Avenue. He continued saying that the project will be funded with federal and state aid funds and recommended beginning the improvements this year. Mr. Larson reported that a number of neighborhood meetings have been held with much of the design issues focusing on the intersection of Clover Street. He stated there is agreement that the traffic signals need to be replaced, but that the neighborhood does not agree with widening this area to five lanes. Mr. Larson recommended the proposal as presented, noting that funding could be in jeopardy if the road is not widened.

Dean Beeman, engineering division, noted that this is a traffic safety improvement project that will relieve congestion, improve capacity and the flow of traffic, and will greatly improve the safety of the intersection for crossing pedestrians. He recommended the five lane option because of its ultimate safety.

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

George Vink supported the left turn lane proposal.

Carla Stetson voiced concerns regarding increased noise pollution, the additional lane will bring traffic closer to homes and the truck traffic needs to be diverted away from the neighborhood.

Kristen Monson stated that Woodland Avenue and Clover Street needs improvement, as safety for children is the most important factor, but feels that five lanes are too wide for children to cross to schools. Ms. Monson feels signal lights with left turn arrows, school crossing signs and a lower speed limit would solve the problem.

Heidi Labyad, showed a video demonstrating the lack of congestion on Woodland Avenue, the problems of students walking to schools and buses, and the many traffic violators. She stated she would like the children to be in the roadway as little as possible, suggested slower speeds in the school zones and working with the school district to move the starting time of schools away from rush hour traffic.

Steve Running stated opposition to the project centers on the proposal to widen the intersection of Woodland Avenue and Clover Street to five lanes. He felt the practical effect of the proposal would be to increase the speed of vehicles in the area and suggested better traffic enforcement and better removal of snow for more safety.

Jeff Brown, Duluth Bicycle Pedestrian Transit Coalition, expressed concern of the loss of green space to the neighborhoods because of increased traffic.

Councilor Talarico recommended the resolution as presented.

Councilor Wheeler suggested accepting the proposal except for the five lane widening segment.

Councilor Prettner Solon felt the issue needs more study as the neighborhood does not feel it is a safe proposal and is not convinced that the five lanes proposal is necessary.

In response to Councilor Prettner Solon, Mr. Larson said a four lane design could work, but it is not the preferred design and would result in continued congestion during peak hours. He continued stating his concern regarding the possibility that state and federal funds could be risked if the road is not widened as proposed. Councilor Prettner Solon stated that she feels that alternate truck routes need to be addressed before there are any more major street improvement projects.

In response to Councilor Hogg, Mr. Larson said his major concern at this point is the possibility of the loss of funding, and stated that the project was put together as a package from Fourth Street to St. Marie Street, and the Clover Street intersection is a major traffic issue in the middle of the project.

Councilor Wheeler moved to amend the resolution by adding the following:

“RESOLVED FURTHER, that the city council hereby indicates its intent not to approve construction of this project if the final design includes an expansion of Woodland Avenue in the area of Clover Street to five lanes,” which motion was seconded and carried upon a unanimous vote.

Resolution 96-1068, as amended, was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-0257 to Strgar-Roscoe-Fausch, Inc., for furnishing additional professional traffic engineering services for additional traffic studies and plan revisions for intersection improvements on Woodland Avenue between Fourth Street and St. Marie Street be amended to increase the amount by \$41,700 for a new total of \$107,450, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2156, Object 5303. To be reimbursed by MSA (municipal state aid).

RESOLVED FURTHER, that the city council hereby indicates the intent not to approve construction of this project if the final design includes an expansion of Woodland Avenue in the area of Clover Street to five lanes.

Resolution 96-1068, as amended, was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Councilor Prettner Solon moved to consider Resolution 97-0075, granting a special use permit to Women's Coalition for a residential rooming house for property located at 20th Avenue East below Seventh Street, at this time, which motion was seconded and unanimously carried.

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

The following individuals spoke in opposition to the resolution: Randy Virta; Darlene Virta; Rebecca Skurla; Jamie Glitsos; Ellowyn Peterson; Pete Glitsos; Davy Jones and John Kleive. Some of the reasons stated were: the neighborhood is densely populated and the proposed location provides needed green space; other property is available for sale that would be suitable for this project; the proposed location is the last piece of green space left in the neighborhood; further community meetings and input are needed; the project would have a detrimental effect on a nearby childcare business; the project will result in decreased property values in the neighborhood; traffic will increase; the neighborhood would like the opportunity to purchase the property and develop a park; the project won't generate any taxes because of its nonprofit status; the project will have a negative impact on the neighborhood; neighboring homes could be damaged during construction and the ledgerock on the proposed site could adversely effect water runoff.

The following individuals spoke in favor of the proposal: Don Klaber; Dick Hudelson; Joel Sipress; Colie Campbell; Celia Scheer; Jean Baribeau-Thoennes; Claire Kirch; Andrea Barber; Karolyn Behn; Jean DeRider; Bob Kosuth; Elizabeth Stech; Po-Lin Ton Kosuth and Howard Fenton. Some of the reasons stated were: there is adequate play area for neighborhood children and this empty lot is not really green space but a dump site; the less fortunate should be entitled to a good safe neighborhood; the project will help keep women and children in the community safe; Chester Park is in the neighborhood which provides abundant green space; Duluth has a reputation for its domestic violence program; the shelter is crowded; there is a great need in the community for the shelter; women and children have been turned away from the shelter because of lack of space; safety of women and children should be a priority; the shelter primarily serves Duluth women and children; support of giving opportunity to women and children in stress; the shelter helps individuals in immediate and definite danger to their lives and shelter helps women and children in a difficult place in their lives who are not safe in their own homes.

Kelly Wentland and Annette Wentland voiced complaints about past actions of a Women's Coalition staffperson.

Councilor Prettner Solon voiced support for the proposal, stating that she feels the location is ideal, and she noted that the Women's Coalition is a model program in the nation and the shelter is recognized as one of the most important service providers in the community.

In response to Councilor Hogg, Jim Mohn, planning division, said there is no plan to improve Seventh Street except for a driveway, which is included in the project cost.

Councilor Hogg noted that the proposal is not a permitted use in the neighborhood and feels it is appropriate for the neighborhood to voice concerns when a special use is requested.

Councilor Wheeler agreed that the neighborhood has legitimate concerns and agreed that there is very little developed green space in the neighborhood. He noted the Women's Coalition has proposed dedicating three of the eight lots to the neighborhood for green space. He felt issues of water runoff and property values have been addressed, and spoke in support of the proposal.

In response to Councilor Bohlmann, Trisha O'Keefe, Women's Coalition, stated that they have tried to keep the shelter location as private as possible and have not requested the attention to this project. She clarified that the proposal is for three additional bedrooms and one

handicapped bedroom, noting the proposal is not to greatly increase the numbers served but to provide better space for the women and children served.

Councilor Bohlmann felt the cost of the project is too high, especially when the number of people served is not being significantly increased. She felt purchasing available homes would accomplish the purpose of the project at a lower cost and would enable the coalition to keep the location private.

Councilor Talarico felt the coalition has determined the best way to serve their population.

In response to Councilor Talarico, Ms. O'Keefe said the coalition is willing to consider the idea of deeding part of the property to the city for open space and that issue would need to be reviewed by the coalition's board.

Councilor Hales moved to table the resolution for further information, which motion was seconded and failed upon the following vote:

Yeas: Councilors Bohlmann, Hales and Hogg -- 3

Nays: Councilors Prettner Solon, Rapaich, Talarico, Wheeler and President Hardesty -- 5

Absent: Councilor Keenan -- 1

Resolution 97-0075 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Women's Coalition has submitted to the city council a request for a special use permit for a residential rooming house on property described as Lots 1, 2, 3, 4, 5, 6, 7, 8, Block 22, Highland Park Addition to Duluth and Lots 1 and 2, Block 35, East Lawn Division of Duluth and located between 20th and 21st Avenue East below Seventh Street, and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission was unable to make a recommendation due to a tie vote on a motion to deny the special use permit, the city council must make this action independent of a commission recommendation; and

WHEREAS, the city council now finds that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Women's Coalition to allow for the construction and operation of a nine bedroom, residential rooming house on the southeast corner of 20th Avenue East and Seventh Street, on the condition that the special use permit be issued and maintained based on plans submitted by Damberg-Scott-Gerzina-Wagner Architects, entitled Women's Coalition, Sheets A-1, A-2 & A-3, dated as received, January 9, 1997, as identified as Public Document No. 97-0127-23.

Resolution 97-0075 was adopted upon the following vote:

Yeas: Councilors Prettner Solon, Rapaich, Talarico, Wheeler and President Hardesty -- 5

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Absent: Councilor Keenan -- 1

Approved January 27, 1997

GARY L. DOTY, Mayor

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At this time, 11:00 p.m., Councilor Talarico moved to continue the meeting until 11:30 p.m., which motion was seconded and unanimously carried.

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Councilor Prettner Solon moved to consider at this time Resolutions 97-0080 overturning, 97-0081 amending and 97-0082 affirming, an action of the planning commission granting a water resources management ordinance variance to Robert L. and Theresa D. Harry to allow a

nonpermitted, post construction, authorization of a dwelling in the floodway on property located at 12920 Water Street, which motion was seconded and unanimously carried.

Councilor Prettner Solon moved to table the resolutions at Mr. Mohn's request for further planning department review, which motion was seconded and passed upon the following vote:

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

Nays: Councilor Hales -- 1

Absent: Councilor Keenan -- 1

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### MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Duluth Convention and Visitors Bureau, which agreement is on file in the office of the city clerk as Public Document No. 97-0127-13, and under which agreement the bureau will provide advertising and promotion services to the city during the year 1997 at a cost to the city of not to exceed \$749,600, payable from Fund 258.

Resolution 97-0049 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Wheeler -- 1

Absent: Councilor Keenan -- 1

Approved January 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

RESOLVED, that the city is hereby authorized to pay \$10,000 to John Beargrease Sled Dog Marathon, Inc., for sponsorship and advertising promotion of the 1997 John Beargrease Sled Dog Marathon, which payment shall be payable from Fund 258 - donations.

Resolution 97-0050 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Greater Downtown Council, under which the council will conduct certain activities in the downtown area, which agreement is on file in the office of the city clerk as Public Document No. 97-0127-14, at a cost to the city of \$87,194, which shall be paid from General Fund 100-015-2030 - Greater Downtown Council projects.

Resolution 97-0061 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

RESOLVED, that the assessment roll levied to defray the assessable portion of the street improvement program for 1994; Martha Street from Fern Avenue to Kenwood Avenue, Mississippi Avenue from College Street to Lyon Street, 11th Avenue East from Ninth Street to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Skyline Parkway (Contract No. 7008); Pacific Avenue from Wellington Street to Seventh Street, 19th Avenue East from London Road to Superior Street, 75th Avenue West and Pulasky, Grand Avenue to end of Pulasky (city properties)(Contract No. 7009); Elysian Avenue from Anoka Street to Winona Street, Oneida Street from 52nd to 54th Avenue East, 51st Avenue East from London Road to Superior Street (Contract No. 7011); Basswood Avenue from Orange Street to Central Entrance, Greysolon Place from 31st Avenue East, Orange Street from Arlington Avenue to Basswood Avenue, 26th Avenue East from Superior Street to Eighth Street (city properties) (Contract No. 7012), be and the same is hereby confirmed.

Resolution 97-0083 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby makes the finding of facts and conclusions set forth in the Public Document No. 97-0127-15 regarding any suspension, revocation and/or fine relating to the on sale intoxicating liquor license of Veterans of Foreign Wars, Duprey-Alexander Post 137, 2024 West Superior Street.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or fine is as follows: That the on sale intoxicating liquor license of the Veterans of Foreign Wars, Duprey-Alexander Post No. 137 be suspended for two days, those days being the first Monday and Tuesday after the city council considers this matter (February 3 and 4, 1997).

Resolution 97-0029 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Unitog Rental Services be and hereby is awarded a contract for furnishing laundry/rental service (annual contract) for the various city departments/divisions in accordance with specifications on its low specification bid of approximately \$74,550, terms net 30, FOB destination, payable out of various funds, dept./agencies, organizations and objects.

Resolution 97-0047 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Biffs, Inc., be and hereby is awarded a contract for furnishing and delivering portable toilets as needed at various locations to various departments in accordance with specifications on its low specification bid of \$11,700, terms net 30, FOB job site, payable out of various funds, dept./agencies, organizations and objects.

Resolution 97-0054 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the city is hereby authorized to accept \$4,000 from the Minnesota department of transportation to assist with funding purchase of a traffic sign graphic computer

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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system from Chromatek, which purchase was approved by Resolution 96-1067, adopted on December 16, 1996.

RESOLVED FURTHER, that these funds shall be deposited in Fund 100-500-1930-4230.

Resolution 97-0057 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the proper city officials are authorized to purchase insurance from the Workers' Compensation Reinsurance Association for the period January 1, 1997, to December 31, 1997, at a cost of \$15,052.20, which shall be payable from the self insurance fund.

Resolution 97-0063 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the city is hereby authorized to renew its present agreement with the Epic Life Insurance Company (Epic) under which Epic provides administrative services to the city group health plan, which renewal will be effective for calendar year 1997, at a cost of \$189,000 plus a \$1.90/month precertification charge per contract, which shall be paid from the group health fund. RESOLVED FURTHER, that the city is hereby authorized to renew its present agreement with Epic under which Epic provides stop loss insurance to the city group health plan, which renewal shall be effective for calendar year 1997, at a cost of \$313,440, which shall be paid from the group health fund.

Resolution 97-0064 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the city is hereby authorized to renew an agreement with Delta Dental for 1997 for administrative services to the city in connection with its self funded employee dental plan at a rate of \$1.76/month for single coverage, \$3.50/month for employee plus spouse and \$5.26/month for employee plus two or more dependents, at an estimated total cost of \$28,875, which shall be payable from Fund 633.

Resolution 97-0065 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proper city officers are hereby authorized to renew an administrative services agreement with Employer Data Communications, Inc., to provide communication, implementation and management of a flexible benefits plan for city employees for 1997, 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. 97-0127-16, on file with the city clerk,



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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at an estimated cost of \$12,637, which shall be paid from the General Fund 100, Agency 032, Org. 1479.

Resolution 97-0066 was unanimously adopted.  
Approved January 27, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proper city officers are hereby authorized to renew its agreement with Minnesota Mutual Life to provide group term life insurance coverage for city employees and retirees during 1997 at the amounts specified in various bargaining unit contracts, under which agreement the city will purchase such insurance at a rate of \$.29 per thousand per month, at an estimated cost of \$138,371. These expenditures will be charged to the appropriate departments' budgets.

Resolution 97-0067 was unanimously adopted.  
Approved January 27, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Larson Chevrolet-Olds be and hereby is awarded a contract for furnishing and delivering a one ton van for the traffic operations division in accordance with specifications on its low specification bid of \$21,748.37, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2006, Object V619.

Resolution 97-0076 was unanimously adopted.  
Approved January 27, 1997  
GARY L. DOTY, Mayor

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Resolution 97-0084, by Councilor Rapaich, approving an agreement for services in the amount of \$14,700 with the Copeland Community Center, was introduced for discussion.

Councilor Rapaich moved to amend the resolution to add the following final paragraph:

"RESOLVED FURTHER, that the agreement shall be subject to cancellation on March 31, 1997, by resolution of the city council adopted prior to that date, and in case of such cancellation, Copeland Community Center shall be entitled to only the first quarter installment payment of \$3,675," which motion was seconded.

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

Councilor Rapaich withdrew the amendment.

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Resolution 97-0040, by Councilor Bohlmann, approving proposed specifications for the new civil service classification of loss control specialist, and specifying contract benefits for same, was introduced for discussion.

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

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BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of parking meter monitor, which were approved by the civil service board on August 6, 1996, and which are filed with the city clerk as Public Document No. 97-0127-17, are approved.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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This classification remains represented by the basic unit and compensation increased from Range 17 to Range 18, \$1,616 to \$1,890 per month (1996 rates).

Resolution 97-0041 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specification for the civil service classification of heavy equipment mechanic, which were approved by the civil service board on January 7, 1997, and which are filed with the city clerk as Public Document No. 97-0127-18, are approved. This classification remains represented by the basic unit and compensation increased from Range 27 to Range 28, \$2,424 to \$2,869 per month (1996 rates).

Resolution 97-0042 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

WHEREAS, that the proposed amendments to the specifications for the civil service classification of welder, which were approved by the civil service board on January 7, 1997, and which are filed with the city clerk as Public Document No. 97-0127-19, are approved. This classification remains represented by the basic unit and compensation increased from Range 27 to Range 28, \$2,424 to \$2,869 per month (1996 rates).

Resolution 97-0043 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

WHEREAS, the city is required to submit a pay equity implementation report to the Minnesota department of employee relations by January 31, 1997; and

WHEREAS, such report is required to be approved by the Duluth City Council; and

WHEREAS, the city's pay equity implementation report has been submitted to the city council (Public Document No. 97-0127-20) and the council has received such report.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby approves the city of Duluth's pay equity implementation report.

Resolution 97-0058 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

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

ANIMAL HUMANE BOARD

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Anita R. Nelson for a term expiring October 31, 1998, replacing Jeffrey Urbaniak who resigned.

Resolution 97-0071 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

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

CITYWIDE REVIEW TEAM for Neighborhood Matching Grants

Linda White (nonprofit) for a term expiring December 31, 1998, replacing Esther Gieschen.

Joseph Grant (West Duluth) for a term expiring December 31, 1998, replacing Dean Persch.

Resolution 97-0072 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

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

BUILDING APPEAL BOARD

Jack Ball (general citizenry), David W. Krech (general citizenry) and Claire Strandlie (building trade union) for terms expiring February 1, 2000.

Resolution 97-0085 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0021, by Councilor Prettner Solon, approving city of Duluth antidisplacement, relocation, acquisition and replacement housing plan for the HUD-funded community development program, was introduced for discussion.

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

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the CSAH 61 route running within St. Louis and Lake Counties for 31 miles between 26th Avenue East in Duluth and the east side of Two Harbors now referred to as the Scenic North Shore Drive, is a major route of scenic travel; and

WHEREAS, the route has a very significant scenic character which is important to the people who live here, to summer residents and to tourists who visit and travel through the area; and

WHEREAS, the scenic character offers a potential for enhancing and enlarging the tourism industry which is a vital part of the economic base of this area; and

WHEREAS, maintaining and enhancing the scenic character of this route will contribute to the pleasure of those who travel it and the potential for attracting additional travelers; and

WHEREAS, application is being made to seek a state of Minnesota designation of the route as a scenic byway; and

WHEREAS, this designation will be conducive to effective marketing of the route as a tourist

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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attraction and will possibly contribute to obtaining special funding for enhancement projects within the corridor of the highway.

NOW, THEREFORE, BE IT RESOLVED, the city council of the city of Duluth, Minnesota, supports the effort to obtain the scenic byway designation of the state of Minnesota.

Resolution 97-0052 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

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

WHEREAS, the city, as a suballocator, is authorized to administer an estimated \$155,689 in 1997 LIHTCs and any conditional award of LIHTCs from MHFA for a specific Duluth project; and

WHEREAS, in accordance with Section 42 of the Internal Revenue Code of 1986, as amended, a LIHTC qualified allocation plan for 1997 (the plan) setting forth criteria governing the award of the city's LIHTCs has been prepared; and

WHEREAS, the Duluth Housing Trust Fund, Inc. (DHTF), board of directors met on January 14, 1997, and recommended approval of the plan to the city council; and

WHEREAS, the plan was made available for review and written comments by the general public and a public hearing was held on January 15, 1997.

NOW, THEREFORE, BE IT RESOLVED, that the 1997 city of Duluth low income housing tax credit qualified allocation plan, on file in the office of the city clerk as Public Document No. 97-0127-21, is hereby approved. Staff are authorized to administer the city's 1997 LIHTC allocation from MHFA according to the approved plan, including any conditional award of LIHTCs to Duluth from MHFA for a specific Duluth project.

Resolution 97-0060 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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Resolution 97-0073, by Councilor Prettnner Solon, granting a special use permit to Mark Lambert/Summit Management for rental townhouse units on property located east of Rice Lake Road - north of the Aspenwood access road (Lambert), was introduced for discussion.

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

Yeas: Councilors Bohlmann, Hales, Prettnner Solon, Rapaich, Talarico, Wheeler and President Hardesty -- 7

Nays: None -- 0

Abstention: Councilor Hogg -- 1

Absent: Councilor Keenan -- 1

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on March 27, 1967, the city council granted to Zenith Dredge Company in accordance with Section 50-35 (n), a special use permit to construct Harbor View Mobile Home Park, now called Zenith Terrace, subject to conditions; and

WHEREAS, Zenith Terrace Associates has submitted to the city council a request for a special use permit amendment for an expansion of the mobile home park located at the

northeast corner of Boundary Avenue and U.S. Highway 2 on property described as: all of Blocks 5, 6, 7, 8 and 9, including the platted streets and alleys, Steel Plant Terminal Addition to Duluth, except the south 25.00 feet lying easterly of a line 594.5 feet distant and parallel with the west line of the NW¼ of SW¼, Section 11, Township 49 North, Range 15 West; the NE¼ of SW¼, Section 11, Township 49 North, Range 15 West of the Fourth Principal Meridian, except the south 25.00 feet of the west 14.00 feet, thereof; the SE¼ of SW¼, Section 11, Township 49 North, Range 15 West of the Fourth Principal Meridian, except the west 14.00 feet thereof, and subject to an existing right-of-way for U.S. Highway No. 2; the NE¼ of NW¼, Section 14, Township 49 North, Range 15 West of the Fourth Principal Meridian lying northeasterly of U.S. Highway No. 2, and Lots 9, 10 and 11, Block 4, Steel Plant Terminal Addition to Duluth; said permit application amendment was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that an amendment to the special use permit is hereby granted to Zenith Terrace Associates to allow for the expansion of Zenith Terrace Mobile Home Park located at the northeast corner of Boundary Avenue and U.S. Highway 2, subject to the following:

That this approval and following conditions refer to the plans and phasing as identified on plans submitted and identified as Public Document No. 97-0127-22;

Phase I

- (a) That all county and state licensing requirements be met;
- (b) The following improvements shall be provided prior to the issuance of any building, grading or other construction permits;
  - (1) Water and sanitary sewer connections shall be approved by city engineering, water and gas department and fire department;
  - (2) National pollution discharge elimination permits (Minnesota Pollution Control Agency) for the entire project be secured and implemented prior to any work in Phase I;
  - (3) Street improvement designs and construction, be approved by the city engineer for compliance with city standards;
  - (4) Storm drainage designs and construction be approved by the city engineer for the entire project;
- (c) That fire hydrants be located within 150 feet of any lot;
- (d) That Lot 24 be designated as a retention pond (unless otherwise justified following stormwater drainage plans are approved);
- (e) That the additional variances necessary from Chapter 51 to fill wetlands be approved;
- (f) That Minnesota department of transportation highway access and approach permits be obtained and implemented;

Phase II

Conditional approval subject to further detailed review of: on site wetlands, access and street issues, and water and sewer services. And all applicable conditions as per Phase I as noted above.

Phase III

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Is not a part of this resolution.  
Resolution 97-0074 was unanimously adopted.  
Approved January 27, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officers are hereby authorized to execute agreements with the following individuals to provide programs at the library: Nevada Barr, Pete Hautman and Mary Logue, in an amount not to exceed \$5,500; payable from General Fund 100, Agency 300, Org. 2330, Obj. 5319.

Resolution 97-0053 was unanimously adopted.  
Approved January 27, 1997  
GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Publicorp under which that firm will provide professional services related to the city's 1997 state legislative program, which agreement is on file in the office of the city clerk as Public Document No. 97-0127-24, at a cost to the city of not to exceed \$42,230, which shall be payable from the General Fund 100-015-1510-5312, \$6,180 of which shall be reimbursed by the Duluth economic development authority.

Resolution 97-0051 was unanimously adopted.  
Approved January 27, 1997  
GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to modify City Contract No. 17708 to accept an additional \$6,840 from the Minnesota department of economic security to operate the Title V senior community service employment program from July 1, 1996, through June 30, 1997. Total grant amount is \$95,660. A copy of this modification shall be on file in the city clerk's office as Public Document No. 97-0127-25.

FURTHER RESOLVED, that monies received pursuant to this grant shall be deposited in Fund No. 271, Budget Item 6322.

Resolution 97-0056 was unanimously adopted.  
Approved January 27, 1997  
GARY L. DOTY, Mayor

- - -

Resolution 97-0086, by President Hardesty, accepting and approving the property tax study project report on 1996 activities and joint initiatives for 1997, was introduced for discussion.

Councilor Hales requested a list of concerns being addressed by the committee. She said she does not support continuing this committee if there have not been accomplishments to date.

- - -

At this time, 11:30 p.m., Councilor Hogg moved to continue the meeting until 11:45 p.m.,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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which motion was seconded and carried upon the following vote:

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

Nays: Councilor Hales -- 1

Absent: Councilor Keenan -- 1

- - -

President Hardesty suggested that the committee report to the council after the meeting. Councilor Hogg felt there should be public discussion on this issue.

- - -

Councilor Hales left the meeting at this time.

- - -

Councilor Prettner Solon said the committee is working towards reduction in property taxes. She said the committee has held many public meetings and said the committee's values, proposals and initiatives have been presented to the council.

Resolution 97-0086 was adopted as follows:

BY PRESIDENT HARDESTY:

WHEREAS, the property tax study project, which is a collaboration project involving the cities of Duluth, Minneapolis and St. Paul, the counties of St. Louis, Hennepin and Ramsey, and the school districts of Minneapolis and St. Paul, has produced its report on 1996 activities and joint initiatives for 1997; and

WHEREAS, the city council has reviewed this report and is in agreement with the positions expressed in such report.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby accepts and approves the property tax study project report on 1996 activities and joint initiatives for 1997.

Resolution 97-0086 was adopted upon the following vote:

Yeas: Councilors Prettner Solon, Rapaich, Talarico, Wheeler and President Hardesty -- 5

Nays: Councilors Bohlmann and Hogg -- 2

Absent: Councilors Hales and Keenan -- 2

Approved January 27, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0088, by President Hardesty, approving the city's 1997 state legislative program, was introduced for discussion.

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

Yeas: Councilors Bohlmann, Hogg, Rapaich, Talarico, Wheeler and President Hardesty -- 6

Nays: Councilor Prettner Solon -- 1

Absent: Councilors Hales and Keenan -- 2

- - -

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to pay to Minnesota Power an amount up to \$100,000 in full settlement of all claims for property damage and consequential damages arising out of a water main break which occurred February 3, 1996.

Resolution 97-0038 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that proper city officials may contract annually with Gopher State One-Call, Inc., for furnishing one call system services for the water and gas department and sewer division in accordance with specifications on its low specification bid of \$2.25 per call or current state contract pricing for an estimated total of \$7,200 each year, terms net 30, FOB job site, \$2,000 payable out of Water Fund 510, Dept./Agency 900, Organization 0500, Object 5316; \$2,000 payable out of Gas Fund 520, Dept./Agency 900, Organization 0500, Object 5316; and \$3,200 payable out of Sewer Fund 530, Dept./Agency 500, Organization 0500, Object 5316.

BE IT FURTHER RESOLVED, that the renewal of this contract shall be subject to annual budget allocations and the availability of funds.

Resolution 97-0062 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer on the south side of Grand Avenue from 84th Avenue West to 250 feet southwesterly.

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of this council to cause this improvement to be made, provided that further information demonstrated that the improvement should be made.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will direct further procedures prescribed by Section 62 of the Charter.

Resolution 97-0044 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer in Oneota Alley from 48th Avenue West to 290 feet westerly.

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of this council to cause this improvement to be made, provided that further information demonstrated that the improvement should be made.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will direct further procedures prescribed by Section 62 of the Charter.

Resolution 97-0045 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, by Resolution 94-0579, the council requested that the commissioner of transportation grant the city of Duluth a design variance on the proposed reconstruction of Michigan Street between First Avenue West and Seventh Avenue West, allowing a reduction of the urban state aid standards for the bridge approaches from the required 32 foot curb to curb



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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street with one lane of traffic and parking on both sides of the street in lieu of the required 11.4 meter curb to curb street with two lanes of traffic and parking on both sides of the street; and

WHEREAS, the commissioner has granted the city a variance from Minnesota Rule 8820.9936 so as to allow a 32 foot curb to curb street with one lane of traffic and parking on both sides of the street in lieu of the required 11.4 meter curb to curb street with two lanes of traffic and parking on both sides of the street, conditioned upon receipt by the commissioner of a resolution of the city council indemnifying the state for the granting of said variance.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby agrees to indemnify, save and hold harmless the state of Minnesota and its agents and employees of and from any and all claims, demands, actions or causes of action arising out of or by reason of the reconstruction of Michigan Street between First Avenue West and Seventh Avenue West, municipal state aid Street No. 145 in the city of Duluth in any other manner than in accordance with Minnesota Rule 8820.9936 and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim of whatsoever character arising as a result of the granting of this variance.

Resolution 97-0059 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Lakehead Constructors be and hereby is awarded a contract for repairing trunnion shaft on Aerial Lift Bridge for the public works department in accordance with specifications on its low specification bid of \$185,300, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2102, Object 5530, to be reimbursed from municipal state aid funding (MSA).

Resolution 97-0068 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for construction of a sanitary sewer at 28th Avenue East and Jefferson Street for the engineering division in accordance with specifications on its low specification bid of \$19,945, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5295, Object 5530.

Resolution 97-0069 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-0837 to Morton International, Inc., for furnishing road salt, be amended to increase the amount by \$45,632.50 for a new total of \$182,368.94, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5233.

Resolution 97-0070 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the United States department of justice, bureau of justice assistance - local law enforcement block grant program for the purchase of police equipment. This grant requires a city match of \$8,708.

BE IT FURTHER RESOLVED, that the proper city officers are hereby authorized to execute such agreements as necessary to implement the project on behalf of the Duluth police department. All revenue to be deposited in General Fund 100, Dept. 200, Org. 1640, Revenue Source 4210.

Resolution 97-0048 was unanimously adopted.

Approved January 27, 1997

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinance was read for the first time:

BY COUNCILOR PRETTNER SOLON

97-001 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 34 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B TO R-3 PROPERTY LOCATED BETWEEN RICE LAKE ROAD AND BLACKMAN AVENUE, NORTH OF BARNES STREET (LAMBERT).

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The meeting was adjourned at 11:45 p.m.

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

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, February 10, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hogg, Prettnner Solon, Talarico, Wheeler and President Hardesty -- 7

Absent: Councilors Keenan and Rapaich -- 2

- - -

The minutes of council meetings held on July 22 and 25, 1996, were unanimously approved.

- - -

**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0210-33 Duluth Denfeld DECA submitting "Solving the Problem of Increased Crime in Duluth" (97-0159R). -- Received

97-0210-02 St. Luke's Medical Center submitting acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance No. 9313 on September 23, 1996. -- Received

97-0210-32 Keith Stauber submitting letter requesting a street sign at 42nd Street and Minnesota Avenue (97-0139R). -- Received

97-0210-15 Todd Signs submitting letter pertaining to Ordean Middle School PTSA BZA appeal (97-0100R). -- Received

97-0210-01 The following submitting communications pertaining to Lambert rezoning and special use permit requests (97-0073R and 97-001-O): (a) Aspenwood owners; (b) Duluth Public Schools; (c) Vernon A. Harrington; (d) Mark W. Lambert; (e) Barbara Mackinaw. -- Received

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**REPORTS OF OFFICERS**

97-0210-03 Assessor submitting notice for confirmation of assessment rolls levied to defray the assessable portions of the street improvement program for 1995: Lester Park (Contract No. 7003 - \$113,096.10) (city properties - \$15,000); Duluth Heights (Contract No. 7003 - \$81,749.70) (city properties \$6,750.30). -- Clerk

97-0210-04 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from Rotary Club of Duluth, Harbortown Minnesota, USA, Inc. -- Received

97-0210-05 Community development and housing division submitting HRA report for the HUD CD-funded housing rehabilitation program for November 1997. -- Received

97-0210-06 Purchasing agent submitting emergency order for snowblower augers for Unit No. 3387 awarded to MacQueen Equipment Company. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

97-0210-07 Alcoholic beverage board minutes of: (a) November 20; (b) December 30, 1996, meetings. -- Received

97-0210-08 Citywide citizens advisory committee minutes of: (a) January 23; (b) January 28, 1997, meetings. -- Received

97-0210-09 Duluth airport authority: (a) November 30, 1996, balance sheet; (b) Minutes of December 17, 1996, meeting. -- Received

97-0210-10 Duluth transit authority: (a) December 1996 income statement; (b) December 1996 financial statement; (c) Minutes of board of directors operations committee January 22, 1997, meeting. -- Received

97-0210-11 Housing and redevelopment authority minutes of: (a) July 31; (b) August 28; (c) September 25, 1996, meetings. -- Received

97-0210-12 Lawful gambling commission minutes of: (a) November 12; (b) November 19; (c) November 26; (d) December 10, 1996, meetings. -- Received

97-0210-13 Spirit Mountain recreation area authority minutes of: (a) November 25; (b) December 27, 1996, meetings. -- Received

97-0210-14 Sanitary sewer board of WLSSD minutes of January 27, 1997, meeting. -- Received

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**OPPORTUNITY FOR CITIZENS TO BE HEARD**

Matt Cich, Heidi Norell and Casey Tynjala, representing Denfeld DECA, explained that they have conducted a marketing research project with regard to the increase of crime in Duluth. The group stated that they hoped that their report (Public Document No. 97-0210-33) will help the city address the issue.

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**RESOLUTIONS TABLED**

Councilor Bohlmann moved to remove Resolution 97-0040, approving proposed specifications for the new civil service classification of loss control specialist and specifying contract benefits for same, from the table, which motion was seconded and unanimously carried.

Resolution 97-0040 was adopted as follows:

BY COUNCILOR BOHLMANN:

WHEREAS, that the proposed specifications for the new civil service classification of loss control specialist, which were approved by the civil service board on December 3, 1996, and which are filed with the city clerk as Public Document No. 97-0210-16, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that the pay range for said classification shall be 131, \$2,535 to \$2,988 per month.

Resolution 97-0040 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

Councilor Prettner Solon moved to remove Resolution 97-0021, approving city of Duluth antidisplacement, relocation, acquisition and replacement housing plan for the HUD-funded community development program, from the table, which motion was seconded and unanimously carried.

Resolution 97-0021 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the Housing and Community Development Act of 1974, as amended, requires that each city have in place an approved antidisplacement, relocation, acquisition and replacement housing plan prior to the city utilizing any funds received from the United States department of housing and urban development (HUD); and

WHEREAS, changes in federal regulations have necessitated that the city make substantial changes in its 1988 plan; and

WHEREAS, the citywide citizens advisory committee (CCAC) and the Duluth Housing Trust Fund, Inc. (DHTF), have reviewed and recommended that the attached revised plan be approved by the city council and then submitted to HUD.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby approves the city of Duluth antidisplacement, relocation, acquisition and replacement housing plan, dated October, 1996, on file with the city clerk as Public Document No. 97-0210-17.

Resolution 97-0021 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

Councilor Prettner Solon moved to remove Resolution 97-0073, granting a special use permit to Mark Lambert/Summit Management for rental townhouse units on property located east of Rice Lake Road north of the Aspenwood access road, from the table, which motion was seconded and unanimously carried.

Councilor Prettner Solon moved to suspend the rules to consider Ordinance 97-001 at this time, which motion was seconded and unanimously carried.

#### **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinance was read for the second time:

BY COUNCILOR PRETTNER SOLON

97-001 (9326) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 34 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B TO R-3 PROPERTY LOCATED BETWEEN RICE LAKE ROAD AND BLACKMAN AVENUE, NORTH OF BARNES STREET (LAMBERT).

Councilor Prettner Solon explained that the resolution being presented replaces the resolution discussed at the agenda session and splits the proposal into two parts. She noted that the resolution only grants a special use permit for Phase I. She further noted that the ordinance rezones part of the property for Phase II.

Councilor Hogg stated that he will abstain from participating in discussion or voting on this resolution and ordinance.

The rules were suspended upon a unanimous vote to hear speakers regarding the resolution and ordinance.

Jim Mohn, physical planning division staff, reviewed that the change included in the replacement ordinance reduces the property being rezoned to R-3 from approximately ten acres to approximately seven acres. He noted that originally the project included eight structures to be built on 13 acres to be developed in two phases. Mr. Mohn reviewed negotiated results of two planning commission meetings and a meeting with Aspenwood Homeowners' Association. He summarized the results as follows: the resolution issues a conditional special use permit to allow Phase I for a low density planned development which includes five eight unit structures in an R-1-b zone; the ordinance conditionally rezones from R-1-b to R-3 adjacent property which allows for Phase II construction of the three remaining 15 unit townhouses as permitted uses. He stated that the reason for this change is because low density planned development special use permits cannot cross into R-3 zoned property. Mr. Mohn noted that Mr. Lambert, the property owner, has

the option to proceed with the first five buildings in accordance with the special use permit. He said at some future date, if Mr. Lambert desires to modify plans from 15 to eight unit structures, he can pursue rezoning the property back to R-1-b and apply for amendment to the special use permit or variance for construction of the remaining buildings (Phase II). He added that if the Aspenwood Homeowners' Association desires to pursue rezoning from R-3 to R-2, Mr. Lambert has expressed a willingness to include his property which is presently being rezoned to R-3 back to R-2 which will allow him flexibility to expand eight unit structures by amendment to the existing special use permit.

Councilor Prettner Solon noted that other changes in the replacement resolution provides for a diverted intersection that prohibits left turns from the project out onto Barnes Road with signage specifying that left turns are illegal. She stated that the resolution provides that the road to Rice Lake Road be gravel before the construction begins and that it be completed to a concrete curb and gutter structure as all roads need to conform to at the end of Phase IV of the project.

Responding to Councilor Hales, Mr. Mohn stated that the reason for rezoning the property at this time is to preserve the integrity of the project as the planning commission has approved it to allow Mr. Lambert to proceed. He added that adjustments are being made in order to meet the technical requirements of the ordinance.

Robin Tellow, representing the Aspenwood Homeowners' Association, requested that the issue be tabled for a short period of time to allow him to meet and discuss the changes presented by Mr. Mohn with the members and Millie Haldean, who are unaware of the new developments, to clear up misunderstandings that are occurring.

Councilor Talarico moved to table the resolution and the ordinance for 30 minutes, which motion was seconded and unanimously carried.

- - -

Councilor Prettner Solon moved to remove Resolutions 97-0080, 97-0081 and 97-0082, overturning, amending and affirming, respectively, the action of the planning commission granting a water resources management ordinance variance to Robert L. and Theresa D. Harry to allow a nonpermitted, post construction, authorization of a dwelling in the floodway on property located at 12920 Water Street, from the table, which motion was seconded and unanimously carried.

Councilor Prettner Solon reviewed that the city council planning committee recommends Resolution 97-0081 and noted the conditions stated in the resolution.

Resolutions 97-0080 and 97-0082 were withdrawn.

Resolution 97-0081 was adopted as follows:

**BY COUNCILOR PRETTNER SOLON:**

WHEREAS, Robert and Theresa Harry have submitted to the city council an appeal of the conditions of a variance request for a nonpermitted, post-construction, authorization of a two story 22 feet x 44 feet dwelling and a 20 feet x 36 feet detached garage in the floodway on property described as: southerly 1/2 of Lot 26, and all of Lots 27 and 28, Fond du Lac Addition to Duluth; and located at 12920 Water Street; and said variance application was duly referred to the city planning commission for action and the city planning commission subsequently granted the following variances:

- (a) Sec. 51-7. Continuation of nonconforming uses;
- (b) Sec. 51-15. General compliance;
- (c) Sec. 51-16. Floodway district--permitted uses;
- (d) Sec. 51-23. Limitations on variances in flood plains, (a);

(e) Sec. 51-29. Shoreland zone, (e)(2).

Subject to the following conditions:

(a) That the building be scaled back to its original footprint of 32 feet x 22 feet with an enclosed/attached six feet four inches x 12 feet porch;

(b) The first floor is at present, elevated three feet eight inches above the 100 year flood elevation with the addition of flood gates which in effect reduce the restriction of potential flood water to less than the original structure;

(c) Keep the five feet knee walls for the second floor bedroom;

(d) That building and foundation plans, by a certified engineer, be submitted to and approved by the city of Duluth building department for the building plan as amended proposed by these conditions (the existing structure reduced to the original foot print of 32 feet x 22 feet with an enclosed/attached six feet four inches x 12 feet porch; the first floor level of the structure above the 100 year flood elevation, and with the installation of the proposed flood gates/doors);

(e) The existing garage is accepted as being the same dimension as the pre-1980 structure; and

WHEREAS, the city planning commission's actions were appealed to the city council and the council did hear and consider said appeal at a hearing held January 9, 1997; and

WHEREAS, the city planning commission's conditions were found to be excessive to the city council after hearing and considering said appeal at a hearing held January 9, 1997.

NOW, THEREFORE, BE IT RESOLVED, that the actions of the city planning commission are hereby amended and the variance granted with the following conditions:

(a) That the building be allowed at its present 44 feet by 22 feet configuration;

(b) The first floor is at present, elevated three feet eight inches above the 100 year flood elevation with the addition of flood gates which in effect reduce the restriction of potential flood water to less than the original structure;

(c) Keep the five feet knee walls for the second floor bedroom;

(d) That a federal emergency management agency national flood insurance program elevation certificate be filed with the city building department and the state building official;

(e) That building and foundation plans by a certified engineer be submitted to and approved by the state building official for the existing building, which has the first floor level of the structure above the 100 year flood elevation, and with the installation of the proposed flood gates/doors;

(f) That building and foundation plans, by a certified engineer, be submitted to the federal emergency management agency for a submit-to-rate premium;

(g) The existing garage is accepted as being the same dimension as the pre-1980 structure.

Resolution 97-0081 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

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President Hardesty moved to remove Resolution 97-0088, approving the city's 1997 state legislative program, from the table, which motion was seconded and unanimously carried.

Councilor Hogg moved to separate out Item Nos. 16 (transportation funding) and 19 (state auditor), which motion was seconded and unanimously carried.

Councilor Bohlmann moved to separate out Item Nos. 2 (capital bonding) and 11 (economic development), which motion was seconded and unanimously carried.

Regarding Item No. 16 (transportation funding), Councilor Wheeler voiced his support, noting that with a modest increase now, which is needed for the long run, alternative forms of transportation can be provided.

Councilor Bohlmann opposed an increase in the gasoline tax, noting that the city presently has the highest priced gasoline in the state of Minnesota and that Duluth residents are paying more in gasoline tax than anywhere else in the state. She further stated that an increase in the gasoline tax will adversely affect transportation costs for businesses within the state causing inflated prices for commodities. Councilor Bohlmann stated that an increase in the gas tax does not necessarily mean that the city will see additional funds. She objected to the city using state transportation aid funds to build skywalks and tunnels. She said that until there is a fixed price for gasoline across the state, individuals should not be penalized with fluctuating increases attributed to prices paid for gas.

Councilor Hogg stated that he will not support a gasoline tax increase until the state legislature addresses property tax reform.

Councilor Talarico said the gasoline tax is paid for by the user and, as such, he believes it is a fair way to fund road projects.

Administrative Assistant Nollenberger reviewed that expenditure of Minnesota state aid (MSA) funds is limited to designated streets. He stated that with the exception of the tunnel under Fifth Avenue West, which was a carry over from 1990, no funds have been expended on the skywalk system in the previous five years.

Item No. 16 (c) (transportation funding) was adopted upon the following vote:

Yeas: Councilors Prettner Solon, Talarico, Wheeler and President Hardesty -- 4

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Absent: Councilors Keenan and Rapaich -- 2

Regarding Item No. 19 (state auditor), Councilor Bohlmann stated that she opposes the removal of the mandated use of the state auditor for government audits, noting that the state auditor does a very thorough job that she feels should be more detailed. She stated that both the existing and prior state auditor have told her the city can reduce costs by keeping better records of receipts and invoices to reduce the time that must be spent on reviewing documentation.

Councilor Hogg opposed removing the mandate because it allows the state auditor's office to be candid when uncovering inappropriate expenditures without fear of being fired.

Councilor Wheeler said he supports the resolution, noting that although he believes the state auditor's office has done a good job in the past, that it will allow for healthy competition and, perhaps, reduce auditing costs.

Mr. Nollenberger stated that there are presently five counties that have exemptions from the requirement to use the state auditor and that there are only three cities of the first class in the state which are required to use the state auditor. He noted that those not required to utilize the state auditor hire accounting firms after soliciting proposals. Mr. Nollenberger reviewed that the city council would interview and make the final decision on the firm to be hired since it is administrative decisions that are being audited. He noted that because it is a professional services contract, it does not have to be awarded to the lowest bidder.

Councilor Hales stated that holding the status of "first class city" enables the city to secure more federal funding than cities without it. She said she believes the state auditor has done a commendable job and she is more comfortable keeping the situation the way it is. She said she will consider changing the mandate when the city pursues having its first class status dropped.

Item No. 16 (d) (state auditor) was adopted upon the following vote:

Yeas: Councilors Prettner Solon, Talarico, Wheeler and President Hardesty -- 4

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Absent: Councilors Keenan and Rapaich -- 2



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Regarding Item No. 2 (capital bonding for city sponsored projects), Councilor Bohlmann expressed concern that funds for the Hartley Nature Trail are being requested before final plans and costs have been agreed upon. She noted that after several years the zoo still is not completed and was denied funding last year because of other project requests. She said she opposes this item because she believes projects already started should be prioritized and finished before requesting funds for new ones.

Responding to Councilor Hogg with regard to funding for the library at UMD and the stated cooperation referred to in the resolution, Mr. Nollenberger explained that in the past all funding for the University of Minnesota has been separate from any city sponsored projects. He said, in speaking for Mayor Doty, that "cooperation" to raise funds is to work aggressively within the context of getting funds through a higher education bonding bill and not having it connected with bonding issues associated with the city.

Item No. 2 (a) (capital bonding for city sponsored projects) was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Absent: Councilors Keenan and Rapaich -- 2

Regarding Item No. 11 (economic development), Councilor Bohlmann stated that she will not support any additional tax increment districts because she believes their creation prevents the city, county and school board from collecting generated tax revenues causing funding shortages for basic city services.

Lengthy discussion with regard to the benefits of tax increment financing.

Item No. 11 (b) (economic development) was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Absent: Councilors Keenan and Rapaich -- 2

Resolution 97-0088, as amended, was adopted as follows:

BY PRESIDENT HARDESTY:

RESOLVED, that the city council hereby approves the 1997 Duluth legislative program, which program is on file in the office of the city clerk as Public Document No. 97-0210-30.

Resolution 97-0088, as amended, was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Absent: Councilors Keenan and Rapaich -- 2

with the following exceptions:

(a) No. 2 (capital bonding) 6-1 vote (Councilor Bohlmann)

(b) No. 11 (economic development) 6-1 vote (Councilor Bohlmann)

(c) No. 16 (transportation funding) 4-3 vote (Councilors Bohlmann, Hales and Hogg)

(d) No. 19 (state auditor) 4-3 vote (Councilors Bohlmann, Hales and Hogg)

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

Councilor Prettner Solon moved to remove Resolution 97-0073 and Ordinance 97-001, which were previously tabled temporarily, from the table, which motion was seconded and unanimously carried.

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

Robin Tellor and Millie Holdean stated that they are committed to the results of the negotiations that have been developed and support the outcome.

Linda Krung stated her concern about the process used in putting this development together, noting that the citizens most affected were not knowledgeable of it when it was proposed 18 months ago. She stated that the residents of Aspenwood did not find out about it until last December and even then there was no formal notification because Aspenwood is not within the required 100 foot proximity to the development.

Barbara Romano expressed her concern over safety for children, peace and quiet, traffic, the community setting of Aspenwood and how a large development of this scale for college students threatens to change what is already in place.

Donna Leonard expressed her concern about the lack of accurate information on this project and reviewed the nature of the creation of Aspenwood. She read a letter she received from a Robert Swanstrom listing the reasons he purchased his home in Aspenwood last November, and that if he had been informed of this proposed project, the decision to purchase a home in this neighborhood would have been different.

Kerry Leider, director of facilities and risk management for Independent School District No. 709, expressed the school district's concerns regarding this development as stated in their letter (Public Document No. 97-0210-01(b)). Mr. Leider emphasized the need for increased maintenance on Barnes Road, which is a private road and accesses the school, if the traffic flow is increased.

Mr. Lambert expressed his concern that the school district did not oppose his project initially, but as time goes on, they are trying to make the developer responsible for improvements to the access road. He noted the need for quality student housing.

To councilors' questions, Mr. Lambert stated that he is willing to work with the Aspenwood residents for R-2 rezoning, with respect to the R-1-b zone, but he still intends to request the R-3 rezoning ordinance which is relevant to the other aspects of the total project.

Councilors and Mr. Lambert discussed the issue of the access on to Rice Lake Road and the nature of the surfacing.

Councilor Prettner Solon moved to amend resolution 97-0073 to read as follows:

"WHEREAS, Mark Lambert/Summit Management has submitted to the city council a request for a special use permit, low density planned development, for rental townhouse units on a portion of the property described as: All that part of the southeast quarter of northwest quarter, Section 16, T50N, R14W of the Fourth Principal Meridian described as follows: Commencing at

the north quarter corner of said Section 16, thence north 0°-02'-06" west (assumed bearing), along the east line of said northwest quarter, a distance of 1,314.79 feet to the northeast corner of said southeast quarter of northwest quarter and said northeast corner being the point of beginning of the land to be described; thence south 00°-02'-06" west, along said east line, a distance of 1314.79 feet to the southeast corner of said northwest quarter; thence south 89°-30'-52" west along the south line of said northwest quarter, a distance of 487.62 feet; thence north 6°-26'-59" west, along the easterly right-of-way line of Rice Lake Road, a distance of 76.33 feet; thence south 83°-33'-01" west, along said right-of-way line, a distance of 48.01 feet; thence north 58°-18'-58" west, along said right-of-way line, a distance of 78.66 feet; thence north 20°-10'-59" west, along said easterly right-of-way line of Rice Lake Road, a distance of 419.90 feet thence north 42°-56'-14" east a distance of 1,110.54 feet to the northeast corner of the southeast quarter of northwest quarter of said Section 16 and said northeast corner also being the point of beginning.

Except the south 49.00 feet of the SE¼ of NW¼, Section 16, Township 50 North, Range 14 West, lying east of the easterly right-of-way line of Rice Lake Road.

And, except the east 36.00 feet of the north 764.00 feet of the south 813.00 feet of the SE¼ of NW¼, Section 16, Township 50 North, Range 14 West.

The above described property contains 13.37 acres of land, more or less, and is subject to easements of record and located east of Rice Lake Road, north of Aspenwood access road.

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

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed; and

WHEREAS, after review of the matter, the council believes that it is appropriate to approve only Phases I through V of such project, as outlined and shown on the map on file in the office of the city clerk as Public Document No. \_\_\_\_\_ (referred to herein as the revised project).

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Mark Lambert/Summit Management to permit the construction and operation of the project on the site, on the following conditions:

(a) That all rental agreements, management lease agreements, development agreements or any other agreements between permittees hereunder and any third party specifically include the restrictions and limitations herein contained for the exercise and use of the permit granted hereunder;

(b) That all such agreements specifically prohibit the use of Aspenwood private roadways, except Barnes Road, as a means of ingress and egress to the revised project and provide for punitive measures in the event such prohibition is violated and that all residents of the project shall display vehicle permits for identification and enforcement purposes;

(c) The following improvements shall be provided prior to the issuance of any building, grading or other construction permits:

(1) Plans for water and sanitary sewer connections shall be approved by the city's engineering division, water and gas department and fire department, as is appropriate and shall be installed in accordance with such plans;

(2) National pollution discharge system permits (Minnesota pollution control agency) for the entire project be secured and implemented prior to any work in Phase I;

(3) Street improvement designs and construction, including a Rice Lake Road access and diverted intersections to the roadway originally constructed to provide access from Rice Lake Road to the old Barnes-Ames School (hereinafter Barnes Road), be approved by the city engineer for compliance with city standards that permittee hereunder, provide diverted intersections and international no left turn signs at the access intersections to Barnes Road and no right turn signs be erected on Barnes Road on the easterly approach to the project roadways;

(4) Storm drainage designs and construction be approved by the city engineer for the entire project.

FURTHER RESOLVED, that the following specific improvements identified above shall be provided contemporaneously with the construction of the following phases, as identified on the site plan and identified as Public Document No. \_\_\_\_\_:

(a) Phase I: Two eight unit buildings in the northeast corner of the site with access to Barnes Street and Rice Lake Road:

(1) Street improvement and construction approved by the city engineer for compliance with city standards;

(2) A Rice Lake Road access be constructed to gravel base city standards and connected to Phase I, and that said access be improved to city standards for a paved residential street upon the completion of Phase IV or not more than 30 months from the date of construction of Phase I, whichever is earlier;

(3) Diverted intersections and international no left turn signs be erected at the access intersections to Barnes Road, and no right turn signs be erected on Barnes Road on the easterly approach to project roadways;

(b) Phase II: Two eight unit buildings in the southeast corner of the site;

(c) Phase III: Grounds maintenance building in the center of the site;

(d) Phase IV: One six unit building on the south center of the site with a second access to Barnes Street, diverted intersections and international no left turn signs be erected at the access intersections to Barnes Road, and no right turn signs be erected on Barnes Road on the easterly approach to project roadways;

(e) Phase V: Development of recreational area," which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Hales, Prettner Solon, Talarico, Wheeler and President Hardesty -- 6

Nays: None -- 0

Abstention: Councilor Hogg -- 1

Absent: Councilors Keenan and Rapaich -- 2

Resolution 97-0073, as amended, was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Mark Lambert/Summit Management has submitted to the city council a request for a special use permit, low density planned development, for rental townhouse units on a portion of the property described as: All that part of the southeast quarter of northwest quarter, Section 16, T50N, R14W of the Fourth Principal Meridian described as follows: Commencing at the north quarter corner of said Section 16, thence north 0°-02'-06" west (assumed bearing), along the east line of said northwest quarter, a distance of 1,314.79 feet to the northeast corner of said southeast quarter of northwest quarter and said northeast corner being the point of beginning of the land to be described; thence south 00°-02'-06" west, along said east line, a distance of 1314.79 feet to the southeast corner of said northwest quarter; thence south 89°-30'-52" west along the south line of said northwest quarter, a distance of 487.62 feet; thence north

6°-26'-59" west, along the easterly right-of-way line of Rice Lake Road, a distance of 76.33 feet; thence south 83°-33'-01" west, along said right-of-way line, a distance of 48.01 feet; thence north 58°-18'-58" west, along said right-of-way line, a distance of 78.66 feet; thence north 20°-10'-59" west, along said easterly right-of-way line of Rice Lake Road, a distance of 419.90 feet thence north 42°-56'-14" east a distance of 1,110.54 feet to the northeast corner of the southeast quarter of northwest quarter of said Section 16 and said northeast corner also being the point of beginning.

Except the south 49.00 feet of the SE $\frac{1}{4}$  of NW $\frac{1}{4}$ , Section 16, Township 50 North, Range 14 West, lying east of the easterly right-of-way line of Rice Lake Road.

And, except the east 36.00 feet of the north 764.00 feet of the south 813.00 feet of the SE $\frac{1}{4}$  of NW $\frac{1}{4}$ , Section 16, Township 50 North, Range 14 West.

The above described property contains 13.37 acres of land, more or less, and is subject to easements of record and located east of Rice Lake Road, north of Aspenwood Access Road;

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

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed; and

WHEREAS, after review of the matter, the council believes that it is appropriate to approve only Phases I through V of such project, as outlined and shown on the map on file in the office of the city clerk as Public Document No. 97-0210-31 (referred to herein as the revised project).

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Mark Lambert/Summit Management to permit the construction and operation of the project on the site, on the following conditions:

(a) That all rental agreements, management lease agreements, development agreements or any other agreements between permittees hereunder and any third party specifically include the restrictions and limitations herein contained for the exercise and use of the permit granted hereunder;

(b) That all such agreements specifically prohibit the use of Aspenwood private roadways, except Barnes Road, as a means of ingress and egress to the revised project and provide for punitive measures in the event such prohibition is violated and that all residents of the project shall display vehicle permits for identification and enforcement purposes;

(c) The following improvements shall be provided prior to the issuance of any building, grading or other construction permits:

(1) Plans for water and sanitary sewer connections shall be approved by the city's engineering division, water and gas department and fire department, as is appropriate and shall be installed in accordance with such plans;

(2) National pollution discharge system permits (Minnesota pollution control agency) for the entire project be secured and implemented prior to any work in Phase I;

(3) Street improvement designs and construction, including a Rice Lake Road access and diverted intersections to the roadway originally constructed to provide access from Rice Lake Road to the old Barnes-Ames School (hereinafter Barnes Road), be approved by the city engineer for compliance with city standards that permittee hereunder, provide diverted intersections and international no left turn signs at the access intersections to Barnes Road and no right turn signs be erected on Barnes Road on the easterly approach to the project roadways;

(4) Storm drainage designs and construction be approved by the city engineer for the entire project.

FURTHER RESOLVED, that the following specific improvements identified above shall be provided contemporaneously with the construction of the following phases, as identified on the site plan and identified as Public Document No. 97-0210-31:

(a) Phase I: Two eight unit buildings in the northeast corner of the site with access to Barnes Street and Rice Lake Road:

(1) Street improvement and construction approved by the city engineer for compliance with city standards;

(2) A Rice Lake Road access be constructed to gravel base city standards and connected to Phase I, and that said access be improved to city standards for a paved residential street upon the completion of Phase IV or not more than 30 months from the date of construction of Phase I, whichever is earlier;

(3) Diverted intersections and international no left turn signs be erected at the access intersections to Barnes Road, and no right turn signs be erected on Barnes Road on the easterly approach to project roadways;

(b) Phase II: Two eight unit buildings in the southeast corner of the site;

(c) Phase III: Grounds maintenance building in the center of the site;

(d) Phase IV: One six unit building on the south center of the site with a second access to Barnes Street, diverted intersections and international no left turn signs be erected at the access intersections to Barnes Road, and no right turn signs be erected on Barnes Road on the easterly approach to project roadways;

(e) Phase V: Development of recreational area.

Resolution 97-0073, as amended, was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Prettner Solon, Talarico, Wheeler and President Hardesty -- 6

Nays: None -- 0

Abstention: Councilor Hogg -- 1

Absent: Councilors Keenan and Rapaich -- 2

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

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

Yeas: Councilors Bohlmann, Hales, Prettner Solon, Talarico, Wheeler and President Hardesty -- 6

Nays: None -- 0

Abstention: Councilor Hogg -- 1

Absent: Councilors Keenan and Rapaich -- 2

**- - -MOTIONS AND RESOLUTIONS**

BY COUNCILOR WHEELER:

WHEREAS, the city is presently depositing snow removed from city streets near trout streams in the city of Duluth; and

WHEREAS, because of the delicate ecosystem of these trout streams, the salt contained in this snow can damage these streams if it leaches into them; and

WHEREAS, the city prides itself on the quality of its natural urban environment and it should not be engaging in any practices that may harm that environment.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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NOW, THEREFORE, BE IT RESOLVED, that the city council hereby requests the city to refrain from depositing any snow removed from city streets within 1,000 feet of a trout stream.

Resolution 97-0102 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

RESOLVED, that the assessment roll levied to defray the assessable portion of the sanitary sewer in Ethel Avenue from Springvale Road to 260 feet northerly (Contract No. 7012 - \$27,987.56), be and the same is hereby confirmed.

Resolution 97-0112 was adopted upon the following vote:

Yeas: Councilors Hogg, Prettnner Solon, Talarico and Wheeler and President Hardesty -- 5

Nays: Councilors Bohlmann and Hales -- 2

Absent: Councilors Keenan and Rapaich -- 2

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale club license, for the period ending August 31, 1997, for issuance by the liquor control commissioner, and subject to departmental approvals and the payment of sales and property taxes:

Northland Country Club, 3901 East Superior Street.

Resolution 97-0104 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the on sale intoxicating liquor license, and issues an on sale Sunday license for the period ending August 31, 1997, subject to departmental approvals and the payment of sales and property taxes:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Wadsworth Old Chicago, Inc. (Old Chicago), 325 Lake Avenue South, transferred from Northland Country Club, 3901 East Superior Street, with Rock Bottom Restaurants, Inc., 100 percent stockholder, Thomas A. Moxcev, president, Gary B. Foreman, vice president.

Resolution 97-0105 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

RESOLVED, that Praxair Distribution, Inc., be and hereby is awarded an annual contract for furnishing welding and industrial gas for the various departments in accordance with unit prices as specified on its low bid of approximately \$5,550, terms net 30, FOB destination, payable out of various funds, dept./agencies, organizations and objects.

Resolution 97-0114 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

RESOLVED, that Little Falls Machine, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Falls plows and wings as needed during 1997 for the fleet services division, for an estimated total of \$6,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 97-0116 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

RESOLVED, that MacQueen Equipment be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Hi-Way sand spreader and Elgin sweeper as needed during 1997 for the fleet services division, for an estimated total of \$15,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 97-0117 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

RESOLVED, that Airtouch Cellular and Cellular One be and hereby are awarded a contract for furnishing and delivering cellular air time service and hardware for the various department/divisions in accordance with specifications on its low specification bid of \$42,060 (total), terms net 30, FOB job site, various funds, dept./agencies, organizations and objects.

Resolution 97-0121 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR WHEELER:

RESOLVED, that Duluth Lawn and Sport, Inc., be and hereby is awarded a contract for furnishing and delivering a 4-wheel drive tractor for the city garden division in accordance with specifications on its low specification bid of \$19,542.75, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2007, Object V707.

Resolution 97-0124 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

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

Resolution 97-0126 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed specifications for the new civil service classification of curator/veterinarian, which were approved by the civil service board on December 3, 1996, and which are filed with the city clerk as Public Document No. 97-0210-18, are approved; that said classification shall be subject to the city's collective bargaining agreement with its supervisory unit employees, and that the pay range for said classification shall be 1075, \$3,304 to \$4,012 per month (1996 rate).

Resolution 97-0087 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Jeffrey Jackson (planning commission) for a term expiring March 1, 2000, replacing Michael Lang who resigned.

NEIGHBORHOOD ADVISORY COUNCIL

Jeffrey Jackson (planning commission) for a term expiring March 1, 1998, replacing Michael Lang who resigned.

Resolution 97-0123 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

DULUTH SRO HOUSING COMMISSION

Arlene Bjorkman (St. Louis County social services) for a term expiring March 1, 1999,

replacing Sharon Finch.

Resolution 97-0128 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

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Resolution 97-0138, by Councilor Bohlmann, confirming appointment of Robert Brooks to Duluth economic development authority replacing Jack LaVoy, was introduced for discussion.

Councilor Bohlmann stated that she will vote against this resolution because she doesn't believe there is a need for DEDA. She added that she believes the city council should be handling the matters that DEDA is involved in.

Resolution 97-0138 was adopted as follows:

BY COUNCILOR BOHLMANN:

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

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

Robert Brooks for a term expiring April 27, 2001, replacing Jack LaVoy who resigned.

Resolution 97-0138 was adopted upon the following vote:

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

Nays: Councilors Bohlmann -- 1

Absent: Councilors Keenan and Rapaich -- 2

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

Resolutions 97-0100 and 97-0101, by Councilor Prettner Solon, affirming and reversing, respectively, the decision of the board of zoning appeals to grant a request to allow the installation of a ground sign eight feet four inches tall with a six foot by four foot reader board face with the school name and changeable reader board for current school events and information with the stipulation that no portion of the sign be used for commercial advertising, was introduced for discussion.

Councilor Prettner Solon stated that as the committee chair and a minority, she is recommending Resolution 97-0100, which would not allow commercial advertising. She stated that she supports recognition of sponsor contributions, but not in this fashion.

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

Terry Cottingham, principal of Ordean Middle School, voiced support for Resolution 97-0101, which would allow commercial advertising. He said the intent was to put the name of a local bank at the bottom in four inch letters for a period of three years because it contributed 1/2 the cost of the sign. He noted that the intent of the PTA is to look to other businesses to make contributions until the sign is paid for and then after the three year period is up, other contributors will be recognized. He also said that in light of the discussions at the committee meeting, the PTA is willing to compromise and not have sponsor recognition after the three year period has ended.

Mary Hughley asked if a change in wording from "donated by" to "a special thanks to" might be more acceptable.

Councilor Hogg agreed that allowing advertising sets a precedent. He made a motion to amend Resolution 97-0101 by adding language to limit advertising to recognize one donor for a three year period, which motion was not seconded.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Responding to Councilor Prettner Solon, Marlene Bach, zoning coordinator, stated that the board of zoning appeals addressed the issue of a time limit but decided it would be too difficult to regulate and enforce.

Councilor Wheeler stated that this type of advertising should not be allowed unless the council changes the regulations to allow for commercial advertising in any residential neighborhood.

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

Yeas: Councilors Bohlmann, Hales, Hogg, Prettner Solon, Talarico, Wheeler -- 6

Nays: President Hardesty -- 1

Absent: Councilors Keenan and Rapaich -- 2

Resolution 97-0101 (Public Document No. 97-0210-34) failed upon the following vote:

Yeas: Councilor Hogg -- 1

Nays: Councilors Bohlmann, Hales, Prettner Solon, Talarico, Wheeler and President Hardesty -- 6

Absent: Councilors Keenan and Rapaich -- 2

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Resolution 97-0100 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Ordean Middle School PTSA has appealed to the city council the decision of the board of zoning appeals to grant a request to allow the installation of a ground sign eight foot four inches tall with a six foot by four foot reader board face with the school name and changeable reader board for current school events and information with the stipulation that no portion of the sign be used for commercial advertising on property located at 301 North 40th Avenue East; and

WHEREAS, the city council has considered this appeal and determined that the required findings for granting of a variance to allow for a sign with commercial advertising in an R-1-a zone cannot be made in this case based upon limits set forth in the sign ordinance.

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the board of zoning appeals' decision of December 4, 1996, is hereby affirmed by the city council, and the appeal is denied.

Resolution 97-0100 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, pursuant to Resolution No. 96-0241 adopted on March 25, 1996, the city of Duluth (the city), entered into an agreement with Neighborhood Housing Services, Inc., Duluth, Minnesota (NHS), in which NHS agreed to administer neighborhood and housing services in certain neighborhoods within the city of Duluth (the agreement), payable from the 1995 Federal Program Fund 263 - community development - Neighborhood Housing Service Account No. 6355;

WHEREAS, both parties desire to amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 1, a copy of which is on file in the office of the city clerk as Public Document No. 97-0210-19, to the agreement with NHS which revises the project operating

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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guidelines with no change in compensation under terms of the agreement.

Resolution 97-0106 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, pursuant to Resolution No. 96-0506 adopted on June 10, 1996, the city of Duluth (the city), entered into an agreement with Neighborhood Housing Services of Duluth, Inc. (NHS), Duluth, Minnesota, in which NHS agreed to operate a revolving loan fund to carry out a coordinated program of housing rehabilitation and neighborhood preservation (the agreement), payable from the 1996 Federal Program Fund 262 - community development - NHS Housing Project Account 6902; and

WHEREAS, Amendment No. 1 to the agreement was authorized by city council Resolution No. 96-1031, adopted on December 16, 1996; and

WHEREAS, parties desire to further amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 2, a copy of which is on file in the office of the city clerk as Public Document No. 97-0210-20, to the agreement with NHS which revises the project operating guidelines and adds \$45,000, payable from the NHS Project Account No. 6902 to the compensation total of the contract.

Resolution 97-0107 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 23, 1995, the city established the Neighborhood Housing Services, Inc. (NHS), project pursuant to Resolution 95-0916.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute an agreement, a copy of which is on file with the city clerk as Public Document No. 97-0210-21, with NHS to administer neighborhood and housing services in certain neighborhoods within the city of Duluth. Payment for the agreement shall not exceed \$210,000, payable out of Year 19 (1996) Federal Community Development Program 262 Fund - Neighborhood Housing Service Account No. 6902.

FURTHER RESOLVED, that the agreement shall allow NHS to use loan interest repayment funds from its revolving loan fund (RLF) to reimburse eligible costs of administrative services in an amount not to exceed 90 percent of said interest payments up to \$25,000 per year.

Resolution 97-0108 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Minnesota state colleges and universities (Lake Superior College) has submitted to the city council a request to amend a special use permit for a low density planned development for on campus student housing on property legally described as: that portion of Willard and Piper's Division lying west of the Trinity Road and north of a line 500 feet distance southerly and parallel to the north line of Willard and Piper's Division; and located at the southwest corner of Trinity Road and Arlington Avenue; and said permit application was duly

referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that the special use permit Resolution No. 94-0490 is hereby amended, by deleting Public Document No. 94-0613-28 therein referred to and substituting Public Document No. 97-0210-22(a) on file in the office of the city clerk, therefore, which allows for the development of Lake Superior College (formerly Duluth Technical College) student housing in an R-1-b residential zoning district on property located south and west of the intersection of the Lake Superior College entrance road and Trinity Road subject to the following conditions:

That the terms and conditions of Resolution No. 94-0490, which amended Resolution No. 93-0804, shall control the use and exercise of the special use permit granted hereunder and that the public document be amended to reflect the new plan submitted by the Stanius Johnson Architects, Inc., dated March 25, 1996, on file as Public Document No. 97-0210-22(b) with the following additional conditions:

(a) That prior to the issuance of a certificate of occupancy for the sixth structure authorized by this permit, Lake Superior College reserve and designate in writing a recreation area equal in area to the area of the ballfield that is displaced by this project;

(b) That fire lanes and fire hydrants be provided as required by the fire department.

Resolution 97-0109 was adopted upon the following vote:

Yeas: Councilors Hogg, Prettner Solon, Talarico, Wheeler and President Hardesty -- 5

Nays: Councilors Bohlmann and Hales -- 2

Absent: Councilors Keenan and Rapaich -- 2

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to apply to the Minnesota housing finance agency for an allocation pursuant to the Minnesota city participation program in the maximum allowable amount permitted, said funds to be loaned to low and moderate income first time home buyers at below market interest rates.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into the Minnesota city participation program application-commitment agreement with the Minnesota housing finance agency related to the allocation and sale of qualified mortgage bonds for the benefit of low and moderate income home buyers in the city, which agreement is substantially in the form of that on file in the office of the city clerk as Public Document No. 97-0210-23.

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

Resolution 97-0122 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the proper city officers are hereby authorized and directed to execute an agreement, on file in the office of the city clerk as Public Document No. 97-0210-24, with the Holy Cross Lutheran Church of Duluth Heights, for the nonexclusive use of the basement of the Holy Cross Lutheran Church of Duluth Heights, from January 1, 1997, through December 31, 1997, for the operation of the Duluth senior dining program at a cost of \$6,480, payable at \$540 per month. All funds expended by the city pursuant to this agreement shall be drawn upon Fund 272, Dept. 031, Org. 6307.

Resolution 97-0094 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the proper city officers are hereby authorized to execute an agreement, on file in the office of the city clerk as Public Document No. 97-0210-25 with the Woodland Gardens Association, for the nonexclusive use of the recreation room of the Woodland Gardens Apartments, from January 1, 1997, through December 31, 1997, for the operation of the Duluth senior dining program.

Resolution 97-0095 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and the St. Louis County Board for the furnishing of meals for senior citizens for the period of January 1, 1997, through December 31, 1997. Monies collected under said contract shall be deposited in Federal Program Fund 272, Dept. 031, Org. 6307.

Resolution 97-0096 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city and its parks and recreation and public works departments desire to facilitate the acceptance of gifts to improve and beautify parks in the city by streamlining the acceptance process so that each gift does not require a separate city council resolution.

RESOLVED, that the city treasurer is authorized to accept gifts from individuals and organizations given for upgrading, maintenance and beautification of public parks. These gifts will be deposited in the Special Projects Fund 210-030-2105-4690 and will be used only in accordance with the expressed wishes of the donor.

RESOLVED FURTHER, that the amount and purpose of each gift be communicated in writing by the treasurer to the Duluth City Council within 14 days after the donation is made.

Resolution 97-0103 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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agreement with Foster, Jacobs & Johnson, Inc., for the sum of not to exceed \$2,800, from Capital Fund 450, Agency 015, Object C711, for providing certain mechanical engineering services to the city of Duluth in connection with city hall water pipe replacement (Phase II), said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 97-0210-26.

Resolution 97-0110 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Swan & Associates, Inc., for the sum of not to exceed \$7,500, from Capital Fund 450, Agency 015, Object C711, for providing certain environmental services to the city of Duluth in connection with the city hall water pipe replacement (Phase II), said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 97-0210-27.

Resolution 97-0111 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0118, by Councilor Prettnner Solon, awarding contract to E-Z-Go Textron Corporate for rental of approximately 60 golf carts for the 1997 season in accordance with specifications on its low specification bid of \$33,700, was introduced for discussion.

Responding to Councilor Hogg regarding the relationship of this resolution to the setting of the rates, Mr. Nollenberger explained that it is necessary to know the cost of the golf carts before setting rates. He stated that though he prefers that the council pass this resolution first, if the council wishes to table this resolution, he will authorize a resolution to consider rates for the next meeting.

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

Yeas: Councilors Bohlmann, Hales, Hogg, Prettnner Solon, Wheeler and President Hardesty -- 6

Nays: Councilor Talarico -- 1

Absent: Councilors Keenan and Rapaich -- 2

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BY COUNCILOR PRETTNER SOLON:

BE IT RESOLVED, that the proper city officials are authorized to pay in conformance with the order of the district court in Case No. C5-96-601492, the sum of \$5,625 to Christopher Olson, William Olson, Kathleen Olson and Ronald R. Envall, their attorney, in settlement of the city's share of all claims arising from an accident occurring June 1, 1995, at Riverside Community Club, wherein Christopher Olson was cut and injured by falling glass, payment to be from self insurance fund.

Resolution 97-0127 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Thompson Electric Company be and hereby is awarded a contract for conversion of a pump for the Lakewood water treatment plant in accordance with specifications on its low specification bid of \$61,177, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 97-0089 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that J & D Enterprises, Inc., be and hereby is awarded a contract for furnishing thawing service for water main and service lines for the water and gas department in accordance with specifications on its low specification bid of an estimated \$10,000, terms net/30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5319.

Resolution 97-0136 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that P.B. Distributing, Inc., be and hereby is awarded a contract for overhead door maintenance for the building maintenance division in accordance with specifications on its low specification bid of \$10,500, terms net 30, FOB job site, \$5,000 payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5401; \$5,000 payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5220; \$250 payable out of Water Fund 510, Dept./Agency 900, Organization 0500, Object 5220; and \$250 payable out of Gas Fund 520, Dept./Agency 900, Organization 0500, Object 5220.

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

Resolution 97-0090 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are authorized and directed to execute an agreement, on file as Public Document No. 97-0210-28, leasing to Lakehead Constructors, Inc., a jacking beam and jacking bar for a consideration of \$1,000, said money to be deposited in MSA Account Fund 252-4654, other reimbursements.

Resolution 97-0137 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Resolution 96-0429 to Baker Fire Equipment for furnishing turnout gear for the fire department be amended to increase the amount by \$8,026.80 for a new total of



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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\$16,576.80, payable out of General Fund 100, Dept./Agency 100, Organization 1502, Object 5218.

Resolution 97-0091 was unanimously adopted.  
Approved February 10, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zone is hereby rescinded on Fourth Street from 44th Avenue West to 43rd Avenue West.

Resolution 97-0097 was unanimously adopted.  
Approved February 10, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement for services and a lease agreement with the Duluth housing and redevelopment authority relating to implementation of a federal drug elimination grant program, which documents are on file in the office of the city clerk as Public Document No. 97-0210-29.

Resolution 97-0099 was unanimously adopted.  
Approved February 10, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

WHEREAS, the city of Duluth desires to provide professional officer field training; and  
WHEREAS, the city desires to hire a trainer to provide the services required to train police officers; and

WHEREAS, Dennis L. Conroy, PhD, has submitted a proposal for officer field training services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Dennis L. Conroy, PhD, to provide the city with such training services.

BE IT FURTHER RESOLVED, that the cost of said training services, estimated at \$1,600, will be payable from the General Fund 100, Dept./Agency 200, Organization 1610, Object 5448.

Resolution 97-0119 was unanimously adopted.  
Approved February 10, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

WHEREAS, the city of Duluth desires to complete psychological evaluations; and  
WHEREAS, the city desires to hire a psychologist to provide the services required for the police department; and

WHEREAS, David X. Swenson, PhD, has submitted a proposal for psychological services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with David X. Swenson, PhD, to provide the city with such psychological services.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BE IT FURTHER RESOLVED, that the cost of said psychological services, estimated at \$2,600, will be payable from the General Fund 100, Dept./Agency 200, Organization 1610, Object 5305.

Resolution 97-0120 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the proper city officers are authorized to pay to Electric Fetus, Inc., Erin Stobbe, Jonathan Swanson and Lee Rocchio, and their attorneys, George R. Dunn and Larry Leventhal and Associates, \$74,000 in full and final settlement of the claim which arose out of a 1994 criminal investigation of sales of drug paraphernalia occurring in Duluth, Minnesota; payment to be made from the self insurance fund.

Resolution 97-0129 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the United States department of justice, office of community oriented policing services, to partially reimburse the police department for the salary and benefits of three police officers.

BE IT FURTHER RESOLVED, that the proper city officers are hereby authorized to execute such agreements as necessary to implement the project on behalf of the Duluth police department. All revenue to be deposited in General Fund 100, Dept.200, Org. 1620, Revenue Source 4210.

Resolution 97-0130 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the Minnesota department of public safety, office of traffic safety through St. Louis County to reimburse the police department's police overtime expenditures related to the safe and sober grant program. All revenue to be deposited into General Fund 100, Dept. 200, Org. 1620, Revenue Source 4253.

BE IT FURTHER RESOLVED, that Scott Lyons, chief of Duluth police, is hereby authorized to execute such agreements as are necessary to implement the project on behalf of the Duluth police department.

BE IT FURTHER RESOLVED, that Gary Waller, sheriff of St. Louis County, is hereby authorized to be fiscal agent and conduct fiscal administration of this grant on behalf of the Duluth police department.

Resolution 97-0131 was unanimously adopted.

Approved February 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the United States

department of justice, office of community oriented policing services, to partially reimburse the police department for the salary and benefits of three police officers.

BE IT FURTHER RESOLVED, that the proper city officers are hereby authorized to execute such agreements as necessary to implement the project on behalf of the Duluth police department. All revenue to be deposited in General Fund 100, Dept.200, Org. 1620, Revenue Source 4210.

Resolution 97-0135 was unanimously adopted.  
Approved February 10, 1997  
GARY L. DOTY, Mayor

- - -

Resolution 97-0139, by Councilor Hales, requesting the public works department to return the street sign at 42nd Street and Minnesota Avenue to its original location, was introduced for discussion.

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

Keith Stauber reviewed his recent communication (Public Document No. 97-0210-32) emphasizing that for the 101 years that this stop sign has been in place, there has been no public opposition and that this change was made because of misrepresentation by one individual.

Resolution 97-0139 was adopted as follows:

BY COUNCILOR HALES:

WHEREAS, at the request of one resident of the area, the public works department recently moved the street sign designating 42nd Street on Minnesota Avenue to a new location; and

WHEREAS, prior to being moved, this street sign had been at that location for many years; and

WHEREAS, the public works department made its decision to move this sign without seeking input from the other residents of the area and without consulting the planning commission or the school district; and

WHEREAS, after review of the matter, the city council does not feel that it was appropriate for the public works department to move this street sign.

NOW, THEREFORE, BE IT RESOLVED, that the city council requests that the public works department return the 42nd Street and Minnesota Avenue street sign to its original location.

Resolution 97-0139 was unanimously adopted.  
Approved February 10, 1997  
GARY L. DOTY, Mayor

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The meeting was adjourned at 10:50 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 9326**

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 34 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-b to R-3 PROPERTY LOCATED BETWEEN RICE LAKE ROAD AND BLACKMAN AVENUE, NORTH OF BARNES STREET (LAMBERT).

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Section 1. That Plate No. 34 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

[MAP]  
[refer to page 71]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 30, 1997)

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

Yeas: Councilors Bohlmann, Hales, Prettner Solon, Talarico, Wheeler and President Hardesty -- 6

Nays: None -- 0

Abstention: Councilor Hogg -- 1

Absent: Councilors Keenan and Rapaich -- 2

ATTEST:  
JEFFREY J. COX, City Clerk

Passed February 10, 1997  
Approved February 10, 1997  
GARY L. DOTY, Mayor

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Tuesday, February 18, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hogg, Keenan, Rapaich, Talarico and President Hardesty -- 7

Absent: Councilors Prettner Solon and Wheeler -- 2

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0218-08 Jill Jackson, Melissa Peterson and Kori Johnson submitting communication pertaining to proposed curfew age increase (97-0159R). -- Received

97-0218-01 St. Louis County Board of Commissioners submitting Resolution No. 23 to appoint two commissioners (Dennis Fink and William J. Kron with Marilyn A. Krueger as alternate) as their representatives to the Northwest Airlines tax increment financing district board (Duluth) for one year terms which will expire on December 31, 1997. -- Received

97-0218-11 Mark W. Lambert, Summit Management, Inc., submitting communication pertaining to the student housing development on Rice Lake Road (97-0073R and Ordinance No. 9326). -- Received

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**REPORTS OF OFFICERS**

97-0218-07 Building official submitting memo regarding a water resources management ordinance variance granted to Robert L. and Teresa D. Harry (97-0081R). -- Received

97-0218-02 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from Marshall School. -- Received

97-0218-03 Community development and housing division submitting: (a) HRA housing rehabilitation report for December, 1996; (b) Mission statement, responsibilities and leveraging of funds for 1997. -- Received

97-0218-06 Purchasing agent submitting emergency order for mainframe upgrade awarded to IBM Corporation. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

97-0218-04 Seaway Port authority of Duluth: (a) Minutes of December 17, 1996, meeting; (b) November 30, 1996, financial statement; (1) Balance sheet; (2) Income statement; (3) Budget format. -- Received

97-0218-05 Special assessment board minutes of January 14, 1997, meeting. -- Received

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**RESOLUTION TABLED**

Councilor Keenan moved to remove from the table Resolution 97-0118 awarding contract to E-Z-GO Textron Corporate for rental of approximately 60 golf carts for the 1997 season in accordance with specifications on its low specification bid of \$33,700, which motion was seconded and unanimously carried.

Resolution 97-0118 was adopted as follows:

BY COUNCILOR KEENAN (introduced by Councilor Prettner Solon):

RESOLVED, that E-Z-Go Textron Corporate be and hereby is awarded a contract for furnishing and delivering approximately 60 rental golf carts for the 1997 season for the golf

division in accordance with specifications on its low specification bid of \$33,600, terms net/30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0500, Object 5415.

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

Resolution 97-0118 was unanimously adopted.

Approved February 18, 1997

GARY L. DOTY, Mayor

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### MOTIONS AND RESOLUTIONS

BY COUNCILOR RAPAICH:

RESOLVED, that Plymovent Corporation be and hereby is awarded a contract for labor and material to install a vehicle exhaust ventilation system for Fire Station No. 1 in accordance with specifications on its low specification bid of \$30,622, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C425.

Resolution 97-0145 was unanimously adopted.

Approved February 18, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

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

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

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

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
VFW Post #6320	Curly's Bar	February 5, 1997

Resolution 97-0150 was unanimously adopted.

Approved February 18, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

WHEREAS, the following organizations have applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the following organizations 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.

<u>Organization</u>	<u>Date Filed</u>	
Northland Chapter of MDA	February 5, 1997	raffle waiver
The NRA Foundation	February 5, 1997	raffle waiver
Rotary Club of Duluth, Harbortown	January 29, 1997	raffle waiver

Resolution 97-0151 was unanimously adopted.

Approved February 18, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of senior secretarial specialist, which were approved by the civil service board on February 7, 1997, and which are filed with the city clerk as Public Document No. 97-0218-09, are approved.

Resolution 97-0140 was unanimously adopted.

Approved February 18, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of planning aide, which were approved by the civil service board on February 4, 1997, and which are filed with the city clerk as Public Document No. 97-0218-10, are approved.

Resolution 97-0141 was unanimously adopted.

Approved February 18, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, by application and Permit No. 169, the city engineer granted Silverness Plumbing and Excavating permission to construct a sanitary sewer in Englewood Drive from existing manhole to approximately 235 feet easterly (City Job No. 8925SA95); and

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

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

Resolution 97-0134 was unanimously adopted.

Approved February 18, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0159, by Councilor Hales, requesting the administration to explore the possibility of increasing the curfew age in Section 34-1 of the Duluth Code to 18 years of age, was introduced for discussion.

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

Kristin Shimmin, a high school student, spoke against a possible change in curfew age. She stated that changing the curfew age to from 16 to 18 would be penalizing the large majority of kids who are out at night not causing trouble because of the one to two percent of the kids that do.

Jason Dettel reviewed that he and other students from Denfeld High School conducted a four month survey regarding the curfew and the problems that teens get into after 11:00 p.m. He said their findings support the need to change the curfew age to 18. He clarified that this resolution does not mean you can't be out after 11:00 p.m. as long as you are off the streets, but that if you are wandering on the streets after 11:00 p.m. and causing trouble, you will be in violation of the curfew. Mr. Dettel stated that this resolution will decrease the opportunity for kids that are out and about to committ a violent crime and that enforcement help needs to come from the community.

Councilor Talarico thanked both the speakers for showing their interest in this issue and said that future input from both these opinions will be valuable for resolution of the issue.

Councilor Keenan reminded the council that this resolution only requests the administration to investigate this issue to see if there is need to change the curfew age.

David Siders questioned how the study conducted by the students showed that there is a causal link between the research they gave and what they expected the council to find. Mr. Siders also stated that this resolution discriminates against 16 year olds, the same group of teens that society is trying to give responsibility to in order to prepare them to be on their own.

Councilor Hales stated it is important to raise the awareness of this issue with the public and that this resolution moves the issue into the next step of open dialogue between all young people.

Resolution 97-0159 was adopted as follows:

BY COUNCILOR HALES:

WHEREAS, the Duluth Denfeld High School DECA (an association of marketing students) has conducted a study to determine how serious crime levels are in the Duluth community and how to develop effective solutions to lower these crime levels;

WHEREAS, Duluth Denfeld DECA has presented their study, findings and suggestions to the public safety committee of the Duluth City Council;

WHEREAS, one of the suggestions of the Duluth Denfeld DECA is that there be strict enforcement of a curfew on juveniles up to the age of 18 years old.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby requests the administration to explore the legal and practical ramifications of raising the curfew age in Section 34-1 of the City Code to 18 years of age and in securing strict compliance with that change in the ordinance.

RESOLVED FURTHER, that the Duluth City Council hereby extends its gratitude to the Duluth Denfeld DECA for the effort it put into making its study and formulating its recommendations to the mayor and city council.

Resolution 97-0159 was unanimously adopted.

Approved February 18, 1997

GARY L. DOTY, Mayor

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Councilor Wheeler took his seat at this time.

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**COUNCILOR QUESTIONS AND COMMENTS**

Councilor Hales read into the record a letter from Mark W. Lambert, Summit Management, Inc., regarding the student housing development on Rice Lake Road (97-0073R and Ordinance No. 9326) (Public Document No. 97-0218-11).

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

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

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Tuesday, February 25, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: Councilor Prettner Solon -- 1

- - -

The minutes of council meetings held on August 12 and 26, 1996, were unanimously approved.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0225-04 Duluth Area Chamber of Commerce submitting communication pertaining to economic incentives from the city of Duluth (97-0143R). -- Received

97-0225-06 Alden Lind submitting copy of letter from the office of the attorney general to Representative Willard Munger pertaining to proposed legislation aimed at protecting old growth forest on Park Point (97-0176R). -- Received

97-0225-05 The following submitting communications pertaining to proposed legislation authorizing Miller-Dwan Hospital to become a nonprofit organization (97-0174R): (a) Board of directors of trust for Miller-Dwan Hospital and Medical Center; (b) Duluth Area Chamber of Commerce board of directors. -- Received

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**REPORTS OF OFFICERS**

97-0225-01 Assessor submitting affidavits of mailing of notices of public hearings by the special assesment board on February 25, 1997, at:

(a) 3:30 p.m. regarding reconstruction of Railroad Street from Eighth Avenue West to Garfield Avenue;

(b) 4:30 p.m. regarding sanitary sewers in:

(1) Oneota Alley from 48th Avenue West to 290 feet westerly;

(2) Grand Avenue from 84th Avenue West to 250 feet southwestly. -- Clerk

97-0225-02 Building official submitting appeal of the board of zoning appeals' denial of a request to relax the height limitation from 30 feet to 38 feet for the construction of a new one family dwelling on property located on the southeast corner of Eight Avenue West and Ninth Street (Maryland). -- Committee 2 (planning)

- - -

**REPORTS OF BOARDS AND COMMISSIONS**

97-0225-03 Duluth transit authority minutes of January 29, 1997, meeting. -- Received

- - -

**MOTIONS AND RESOLUTIONS**

Resolution 97-0155, by Councilor Wheeler, confirming assessment rolls levied to defray the assessable portions of the 1995 street program, was introduced for discussion.

Councilor Bohlmann stated she will oppose the resolution because she disagrees with the way property owners are assessed by the city.

Resolution 97-0155 was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the assessment rolls levied to defray the assessable portions of the following be and the same are hereby confirmed:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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1995 street program: Lester Park, Contract No. 7003 (assessable portion - \$113,096.10, city properties - \$15,000); 54th Avenue East from Otsego Street to Glenwood Street, Tioga Street from 60th Avenue East to Occidental Boulevard, 58th Avenue East from London Road to Superior Street, 59th Avenue East from London Road to railroad tracks.

1995 street program: Duluth Heights, Contract No. 7003 (assessable portion - \$18,749.70, city properties - \$6,750.30); Hugo Avenue from Palm Street to Quince Street, Quince Street from Hugo Avenue to Oregon Avenue, Orange Street from Hugo Avenue to 100 feet easterly, Lemon Street from Hugo Avenue to 50 feet easterly.

Resolution 97-0155 was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Absent: Councilor Prettnner Solon -- 1

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0176, by Councilor Wheeler, supporting adoption by Minnesota Legislature of legislation aimed at protecting old growth forest on Park Point, was introduced for discussion.

Councilor Wheeler moved to amend the resolution by deleting the words "this spring" in second line of the first paragraph, which motion was seconded for discussion.

Councilor Wheeler stated that there is no plan to cut the trees this spring, therefore the words aren't needed.

Councilor Wheeler's amendment carried upon a unanimous vote.

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

Alden Lind voiced support for the resolution and referred to a letter from the office of the Minnesota state attorney general (Public Document No. 97-0225-06) as to the environmental impact and the interest there is for this project.

Gary Glass, representing the Isaac Walton League, reviewed a report from the department of natural resources regarding the forest at the end of Park Point. He stated that his interest is with long range planning for this specific forest and noted potential threats to the area.

Noel Knudson, Daniel Johnson and Tim Dawson, representing the Duluth Audobon Society, supported the resolution, noting the need to protect and preserve the forest from damage for the generations to come and emphasizing the ecological and economic value.

Scott Wolff, member of the Park Point long range planning committee, noted that a grant has been obtained to preserve the forest and encouraged the council to move forward with this legislation to insure protection for the area.

Councilor Hales referred to the proposed legislation, noting there may be other laws in place that protect natural resources that are relevant to the old growth forest. She expressed concern that all agencies involved have not had input, and that the forest and airport must coexist along with the community club.

Hank Storms, representing the Duluth airport authority, noted that the authority has no plans to cut trees at Sky Harbor Airport. He requested that the airport authority be given the opportunity to review this resolution.

Councilor Wheeler noted that he discussed this resolution with Mr. Grinden, director of the airport authority, who confirmed there are no immediate plans to cut any trees down. He stated this legislation will serve merely as a form of insurance.

Councilor Hogg voiced his support for the cause, but expressed concern for the process, in that the airport authority should be involved.

Responding to Councilor Hales, City Attorney Dinan stated he did not draft this legislation and, therefore, cannot comment on the intent.

Councilor Hogg moved to amend the resolution by deleting the first paragraph of the resolution and in the last paragraph, change "sections" to "Section" and delete the words "1 and," which motion was seconded and discussed.

Councilor Wheeler voiced support for further discussion regarding protection of the old growth forest.

Councilor Hales proposed a friendly amendment that, in conjunction with Councilor Hogg's amendment, the next paragraph would become the new first paragraph and read as follows:

"WHEREAS, the city council believes that the old growth forest on Park Point beyond the Sky Harbor Airport is a treasure, and that every effort should be made to preserve it; and," which Councilor Hogg accepted.

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

Councilor Hogg's amendment carried upon the following vote:

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

Nays: Councilors Keenan and Wheeler -- 2

Absent: Councilor Prettner Solon -- 1

Resolution 97-0176, as amended, was adopted as follows:

BY COUNCILOR WHEELER:

WHEREAS, the city council believes that the old growth forest on Park Point beyond the Sky Harbor Airport is a treasure, and that every effort should be made to preserve it; and

WHEREAS, state representatives Mike Jaros, Willard Munger and Tom Huntley are considering introduction of legislation during the 1997 state legislative session which is aimed at protecting such old growth forest, the current draft (Bill Draft No. 97-1754) of which proposed legislation is on file in the office of the city clerk as Public Document No. 97-0225-11; and

WHEREAS, the city council is supportive of the efforts of representatives Jaros, Munger and Huntley to maintain the ecological integrity of this area on Park Point.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby requests the Minnesota legislature to enact Section 2 of the above referred to legislation being proposed by representatives Jaros, Munger and Huntley.

Resolution 97-0176, as amended, was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

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At this time, 8:45 p.m., President Hardesty announced the public hearing regarding Miller-Dwan Hospital and Medical Center would begin (Public Document No. 97-0225-07).

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At this time 9:50 p.m., President Hardesty declared the hearing closed and the regular order of business resumed.

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President Hardesty moved to consider Resolution 97-0174, requesting the Minnesota Legislature to adopt legislation authorizing Miller-Dwan Hospital to become a nonprofit organization, at this time, which motion was seconded and unanimously carried.

Councilor Keenan stated that he feels that this is a very important issue and that he has not had adequate time to review it. He said he is not convinced of the urgency of this issue for this legislative session and that he weighs heavily the 1993 task force recommendation that this be kept as a city of Duluth operation.

Councilor Wheeler noted there were nine meetings of the current task force with tremendous media coverage and that his main concern is that the original intent of the trust be continued regardless of the ownership status.

Beth Storaasli, chairperson of the Miller-Dwan board of directors of trust, noted that the board understands that the board will always be bound by the terms of the trust and that the opinion of the attorney general is that the original mission must be maintained.

Responding to Councilor Bohlmann, Mr. Dinan stated that if the proposed legislation becomes effective, any future merge or sale of the hospital would not have to come back to the city council, but would always come under the jurisdiction of the attorney general for enforcement of the trust.

Councilor Bohlmann stated that she believes this issue was settled four years ago when the task force concluded that the city should maintain ownership. She asked who will oversee the continuation of the original trust terms if Miller-Dwan merges and stated that competition in the medical community is needed and this issue should not be rushed through until it is known what the full financial impact of a merge would have on the community.

President Hardesty noted that the Miller-Dwan board of directors of trust has been discussing this proposed legislation since October of 1996.

Councilor Hogg reviewed his perspective that the task force had meetings that were open to the public and reviewed all options. He noted that when the board came forth and suggested the creation of a task force, the board was not sure what would come from the task force but trusted the process. Councilor Hogg explained that after all information was reviewed, the issue became what is the relationship of the hospital to the city. He explained that the city has always been a trustee to the mission of the hospital and the questions were: will the mission remain protected; is the best interest of the community protected and will the hospital be better off without having the city affecting some of the decisions. Councilor Hogg noted that the law protects the mission of the hospital, whether there is a change in the structure of the hospital or not and that the direction of the medical industry is not controlled locally, therefore, flexibility is important to allow medical professionals to make the best decisions for the hospital.

Councilor Talarico stated that he understands that the city has to get away from hospital management, but he still has some reservations, noting that the city has the duty to fully protect this asset and that all alternatives have not been fully explored. He questioned if the city has enough information and what will happen to the rest of the medical community with this possible change and what choices will the citizens have. He said he believes the citizens are the beneficiaries of the trust and thus the city council has the responsibility to represent and protect those citizens.

Councilor Hales stated that it is time to move forward and noted it was a different climate four years ago when this issue was looked at.

President Hardesty noted that the city does not have the ultimate responsibility because the board of directors of trust was established to oversee operations of the hospital.

Responding to Councilor Keenan, Mr. Dinan stated that this action does not require an ordinance even though the result of transfer of property may occur because the resolution requests the legislature to pass legislation which would authorize the restructuring that is proposed, thus bypassing the City Charter provision.

Councilor Bohlmann said the city should not act on this issue until it is determined if the hospital will receive 501(c)(3) nonprofit status and that the other health care providers have not had time to come forth with their perspective of how this will affect them.

Councilor Keenan moved to table the resolution until December 1, 1997, and if there is support for the resolution at that time, it can become part of the 1998 legislative program, which motion was seconded and failed upon the following vote:

Yeas: Councilors Bohlmann, Keenan and Talarico -- 3

Nays: Councilors Hales, Hogg, Rapaich, Wheeler and President Hardesty -- 5

Absent: Councilor Prettner Solon -- 1

Councilor Keenan moved to amend the resolution by adding the following to the end of the last paragraph: “, provided that such legislation is subject to approval by the Duluth City Council before it becomes effective,” which motion was seconded and discussed.

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

Councilor Keenan's amendment carried upon a unanimous vote.

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Councilor Talarico moved to suspend the rules to extend the meeting until 11:30 p.m., which motion was seconded and unanimously carried.

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Councilor Talarico moved to amend the proposed legislation as follows:

(a) Renumber Section “6” to number “7”;

(b) Add a new Section 6 as follows:

“Section 6. Beneficiary asset oversight.

That the 501(c)(3) corporation or nonprofit corporation shall annually provide the mayor and the city council of the city of Duluth a certified audit report which allows the city of Duluth to oversee the asset, as beneficiary of the original trust. The city of Duluth shall reserve the right as legal representatives of the beneficiaries of the trust to petition District Court for appropriate relief.”

Councilor Talarico stated that the intent of this amendment is to protect the original intent of the mission statement to insure that the district court will have the right of supervision, and that a responsibility will remain with the city council.

Councilor Hogg moved to suspend the rules to hear a speaker on the amendment, which motion was second and unanimously carried.

Harold Frederick, attorney for Miller-Dwan Medical Center, noted that in the by laws, or the articles of incorporation, that an annual financial report will be filed with the city clerk. He noted that these items were included in the legislation because the document states that the requirement cannot be changed without approval of the city council, and thus with that annual report, the city council will have the information necessary to address the district court if they feel there is a need to. Mr. Frederick stated he believes that, with the requirement, any individual has the right to petition the court and that making the reference to the council as the body that would be acting in behalf of the beneficiaries of the trust is unnecessary.

To council inquiry, Mr. Dinan suggested that if the council wishes to proceed with the intent of Councilor Talarico's amendment that, instead of the language proposed by Councilor Talarico, it be changed to the following two objectives:

(a) A reporting mechanism to give the city council oversight of the charitable mission;

(b) That the city council have the right to enforce the terms of the charitable trust; and if that passes, language agreeable to the city council will be drafted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Councilor Talarico, the author of the motion, and Councilor Keenan, the seconder, accepted Mr. Dinan's suggestion to replace the original motion.

Ms. Storaasli commented that the intent of the amendment is good but that the second part of the amendment brings the issue back to where it is now, negating what is trying to be accomplished with this legislation.

Councilor Talarico's amendment failed upon the following vote:

Yeas: Councilors Bohlmann, Keenan and Talarico -- 3

Nays: Councilors Hales, Hogg, Rapaich, Wheeler and President Hardesty -- 5

Absent: Councilor Prettner Solon -- 1

Councilor Hogg moved to call the question on the amended resolution, which motion was seconded and unanimously carried.

Resolution 97-0174, as amended, was adopted as follows:

BY PRESIDENT HARDESTY:

WHEREAS, the board of directors of trusts of Miller-Dwan Medical Center has submitted a unanimous recommendation that the city council request the Minnesota legislature to adopt legislation authorizing the board of directors of trusts to create a nonprofit corporation and transfer the assets and liabilities of Miller-Dwan Medical Center to such corporation; and

WHEREAS, a task force jointly established by the city of Duluth and the Miller-Dwan Medical Center board of directors of trusts has reviewed the recommendations of the board of directors of trusts and has unanimously concurred with such recommendations; and

WHEREAS, such task force has specifically recommended adoption of the draft legislation, articles of incorporation and bylaws on file in the office of the city clerk as Public Document No. 97-0225-09; and

WHEREAS, the Miller-Dwan Medical Center board of directors of trusts has indicated its approval of the form of such draft legislation, articles of incorporation and bylaws, and its agreement to adopt such articles of incorporation and bylaws prior to or upon enactment of such draft legislation; and

WHEREAS, the Duluth City Council has reviewed the recommendations of the task force and believes that it is in the best interests of the citizens of Duluth that they be implemented.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby requests the Minnesota legislature to adopt the above referred to legislation authorizing the creation of a Minnesota nonprofit corporation and the transfer of the assets and liabilities of Miller-Dwan Medical Center to such nonprofit corporation, provided that such legislation is subject to approval by the Duluth City Council before it becomes effective.

Resolution 97-0174, as amended, was adopted upon the following vote:

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

Nays: Councilors Bohlmann and Talarico -- 2

Absent: Councilor Prettner Solon -- 1

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the Duluth News-Tribune be and hereby is designated the official newspaper of the city of Duluth for the year 1997, and the contract for publishing the proceedings of the city council of the city of Duluth and all other matter required by law to be published by the city of Duluth, hereby is awarded to the Duluth News-Tribune on its bid for said publications of \$.254 per line on the first insertion and \$.254 per line for each subsequent insertion of the same

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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notice, these being the legal rates for the State of Minnesota. Estimated total annual cost \$25,000.

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

Resolution 97-0132 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Resolution 96-0756 to Ziegler, Inc., for furnishing grader blades, be amended to increase the amount by \$21,300 for a new total of \$30,789.15, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 97-0146 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Resolution 96-0755 to Ziegler, Inc., for furnishing grader blades, be amended to increase the amount by \$10,000 for a new total of \$17,521.56, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 97-0147 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Johnson Insurance Consultants for professional consulting services relating to employee health benefits during the year 1997, which agreement shall be substantially in the form of Public Document No. 97-0225-08, on file in the office of the city clerk, at a cost to the city of \$10,800 plus reimbursable expenses, which shall be payable from the group health fund - administration account.

Resolution 97-0149 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Jake's Quality Tire, Inc., be and hereby is awarded a contract for furnishing and delivering six grader radial snow tires for the fleet services division in accordance with specifications on its low specification bid of \$5,387.05, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 97-0161 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that U.S. Marshal Service be and hereby is awarded a contract for payment of lien amount on a 1995 Ford Windstar for the police department in accordance with specifications



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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on its low specification bid of \$16,180, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2006, Object V607.

Resolution 97-0162 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Schindler Elevator Corporation be and hereby is awarded a contract for furnishing full service elevator maintenance of city elevators for the various city departments in accordance with specifications on its low specification bid of \$14,400 per year, terms net, FOB job sites, various funds, dept./agencies, organizations, and objects.

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

Resolution 97-0163 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Paul Stromquist and Sons be and hereby is awarded a contract for furnishing decorative and ornate plaster repairs for the city hall rotunda (first floor hall of mayors) and city council chambers in accordance with specifications on its low specification bid of \$9,850, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 700, Organization 1418, Object I306.

Resolution 97-0165 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that D.C. Hey Company be and hereby is awarded a contract for furnishing and delivering a new Minolta EP4050 copier machine for the engineering division in accordance with specifications on its low specification bid of \$10,485.53, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2106, Object B657.

Resolution 97-0168 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the off sale intoxicating liquor license for the period ending August 31, 1997, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Woodland Liquors, Inc. (Woodland Liquor), 4024 Woodland Avenue, transferred from Franchar, Inc. (Liberty Wine & Spirits), same address, with Walter A. Peterson, president and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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80 percent stockholder, and Timothy Peterson, 20 percent stockholder.

Resolution 97-0175 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Talarico - 1

Absent: Councilor Prettner Solon - 1

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

PARKING COMMISSION

Neill Atkins (District 4) for a term expiring July 1, 1997, replacing Louis DeRienzo who resigned.

Resolution 97-0093 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

HUMAN RIGHTS COMMISSION

Christine S. Bowlin, Chau B. Nguyen and Russell Stover for terms expiring March 1, 2000.

Resolution 97-0152 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

PARK AND RECREATION BOARD

Donald Wicklund for a term expiring February 13, 2000.

Resolution 97-0153 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

WOMEN'S COMMISSION

Barbara J. Main for a term expiring September 17, 1999.

Resolution 97-0154 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR BOHLMANN:

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

PARK AND RECREATION BOARD

Robert C. Pearson for a term expiring February 13, 2000, replacing Allen Willman.

Resolution 97-0156 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

SANITARY SEWER BOARD of the Western Lake Superior Sanitary District

Jane C. Gilbert for a term expiring July 1, 1999, replacing Howie Hanson who resigned.

Resolution 97-0157 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

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Resolution 97-0143, by Councilor Keenan, relating to economic incentives from the city of Duluth, was introduced for discussion.

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

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Councilor Keenan moved to suspend the rules to extend the council meeting to 11:45 p.m., which motion was seconded and unanimously carried

- - -

Resolution 97-0142, by Councilor Keenan, authorizing a consultant agreement with Seaway Engineering Company for providing certain engineering services to the city of Duluth in connection with the Hartley Nature Center bike and pedestrian trail, in an amount not to exceed \$42,687, was introduced for discussion.

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

Bill Maier stated that this improvement is needed because of the erosion on the existing trail and that it will be used by pedestrians and bicyclists.

Councilor Bohlmann stated that she will not support this resolution because of its ties to the Hartley Nature Center.

Councilors Hogg and Keenan stated that this project affects more than just the nature center and that it will reduce traffic off Woodland Avenue and the University of Minnesota-Duluth (UMD) area.

Resolution 97-0142 was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Seaway Engineering Company for the sum of not to exceed \$42,687, from Capital Fund 450, Agency 015, Object C710, for providing certain engineering services to the city of Duluth in connection with the Hartley Nature Center Bike and Pedestrian Trail, said services and payment therefore to be substantially as outlined in the agreement on file in the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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office of the city clerk as Public Document No. 97-0225-10.

Resolution 97-0142 was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Absent: Councilor Prettner Solon -- 1

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that M.J. Widdes, Inc., be and hereby is awarded a contract for furnishing and delivering various zoo animal bedding materials and dry food for the zoo animals at Lake Superior zoo in accordance with specifications on its low specification bid of \$8,040.22, terms net 30, FOB destination, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5245.

Resolution 97-0144 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

WHEREAS, Duluth Friends of Tennis, Inc., have operated the Longview tennis courts under contract with the city of Duluth since 1980; and

WHEREAS, user fees for the use of the Longview tennis courts have not been increased since 1982, and the contract between the Duluth Friends of Tennis, Inc., and the city requires that any change in user rates must be approved by a resolution of the Duluth City Council;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves the following rate increases in user fees for the Longview tennis facility:

(a) The family season pass shall increase from \$50 to \$60;

(b) The adult season pass shall increase from \$30 to \$35;

(c) The junior season pass shall increase from \$20 to \$25;

(d) The reservation fee for season passholders shall increase from \$1 per hour to \$2 per hour;

(e) The reservation fee for nonseason passholders shall increase from \$3 per hour to \$4 per hour.

Resolution 97-0166 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

WHEREAS, Minnesota Power has a large amount of presently taxable personal property located in the city of Duluth; and

WHEREAS, the city of Duluth currently derives over \$775,000 in revenues from taxation of this personal property; and

WHEREAS, Minnesota Power is a valued corporate member of the Duluth community and has worked cooperatively with the city of Duluth in the past; and

WHEREAS, the Minnesota department of revenue in conjunction with the public utilities commission (PUC) and the department of public service has issued a study dated January 15,

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1997, entitled "Analysis of Utility Taxation in Minnesota" and presented such information before the senate subcommittee for property tax and local government budget division, Senator Sandra L. Pappas, Chair, on February 5, 1997; and

WHEREAS, the above referenced study by the department of revenue has recommended the decreased use or elimination of personal property tax as a source of revenue for local entities due to the competitive issues facing investor owned utilities; and

WHEREAS, investor owned utilities (IOU's) have proposed legislation which could remove personal property tax valuation from the available tax capacities of affected jurisdictions; and

WHEREAS, jurisdictions that lose tax capacity would see significant increases in property taxes at the local level as a result of such legislation without replacement revenues; and

WHEREAS, the replacement revenues of a utility or "meter" tax or other such remedies do not provide the same assurance of cash flow and leave affected jurisdictions with an inability to deal adequately with financial concerns; and

WHEREAS, the replacement revenues may give jurisdictions inadequate security in receipt of revenues both now and in the future; and

WHEREAS, with the loss of the personal property taxes, the affected jurisdictions may experience an adverse impact in their ability to bond, their bond ratings, their long term debt, and will experience problems with outstanding debt, including issues concerning bond disclosure requirements.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby supports the formation of a coalition of affected government entities to work jointly on the above issues to ensure the revenue needs of the city and protect the citizens of the community.

Resolution 97-0158 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that MacQueen Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering a trip-edge plow for the street maintenance division in accordance with specifications on its low specification bid of \$5,691.36, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5580.

Resolution 97-0148 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that various contractors be and hereby are awarded a contract for furnishing and delivering snow train equipment rental on an as needed basis for the street and park maintenance division in accordance with specifications for an estimated amount of \$150,000, terms net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5415.

Resolution 97-0164 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

BE IT RESOLVED, that the proper city officials are authorized to pay to Kevin Corrigan,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Dawn Corrigan and Richard Galena, their attorney, the sum of \$113,000 in settlement of the claims of the Corrigans arising out of a traffic accident on July 15, 1991, at Highway 61 and Brighton Beach Road; payment to be from Self Insurance Fund 605.

Resolution 97-0160 was unanimously adopted.

Approved February 25, 1997

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 11:40 p.m.

JEFFREY J. COX, City Clerk

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, March 17, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0317-18 Joseph H. Kleiman and Sheryl Aamodt submitting petition to vacate 20th Avenue West between West Michigan Street and the railroad track owned by CP Rail. -- Assessor

97-0317-25 District court, sixth judicial district submitting order appointing Kenneth H. Nebel to replace Ben E. Gustafson as a member of the Duluth Charter Commission. -- Received

97-0317-26 Louise Curnow submitting letter pertaining to confirming appointments to the environmental advisory council (97-0195R). -- Received

97-0317-28 Jim Listerud submitting letter pertaining to private golf cart use (97-0212R). -- Received

97-0317-23 Rose Loeffler-Kemp submitting letter pertaining to confirming appointments to the environmental advisory council (97-0195R). -- Received

97-0317-01 Natchio's, Inc., submitting letter surrendering their on sale intoxicating liquor license as per the terms of Resolution No. 94-0094. -- Clerk

97-0317-27 North Star Community Development Corporation submitting communication pertaining to the proposed authorization of conveyance of a portion of Lot 5, Block 1, and accepting an easement for public right-of-way over a portion of Lot 7, Block 1, North Star Marine (97-002-O). -- Received

97-0317-20 Monica Roth Day submitting letter pertaining to confirming appointments to the environmental advisory council (97-0195R). -- Received

97-0317-24 The following submitting communications pertaining to the proposed agreement for services with Copeland Community Center (97-0084R): (a) Harbor View Resident Management Corporation; (b) United Way of Greater Duluth. -- Received

97-0317-02 The following submitting communications pertaining to the proposed McQuade Road protected access project (97-0098R): (a) Claer Dethmus; (b) MPAC; (c) Debbie Ortman; (d) Clyde Ritchie. -- Received

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**REPORTS OF OFFICERS**

97-0317-03 Assessor submitting:

(a) Affidavits of mailing of notice of public hearing by the special assessment board on March 25, 1997, regarding proposed improvements of:

(1) Branch Alley from 29th Avenue East to 30th Avenue East (permanent residential design alley);

(2) Railroad Street from Eighth Avenue West to Garfield Avenue (reconstruction);

(3) Second Street Alley from 30th Avenue East to Hawthorne Road (permanent residential design alley);

(4) 49th Avenue East from Oneida Street to Glenwood Street (permanent residential design street);

(b) Letter for confirmation of assessment rolls levied to defray the assessable portions of the street improvement program for 1996: Upper Woodland West (Contract No. 7013 - \$295,220.70); Lochaire/Parkville (Contract No. 7014 - \$158,572.50); Lower Lester Park 1 (Contract No. 7015 - \$125,725.80); Lower Hunters Park (Contract No. 7016 - \$324,393.30); Jefferson Street/13th Avenue East (Contract No. 7017 - \$44,370). -- Clerk

97-0317-05 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from Delta Epsilon Chi on April 30, 1997. -- Received

97-0317-13 Community development and housing division submitting HUD quarterly report for October-December, 1996. -- Received

97-0317-04 Engineering division submitting monthly project status report of February 1, 1997. -- Received

97-0317-06 Purchasing agent submitting emergency order for pump repair for Pump Station No. 4 awarded to W.W. Goetsch and Associates. -- Received

97-0317-19 Water and gas department director submitting Steam District No. 2 financial statements of December 31, 1996 and 1995. -- Received

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#### **REPORTS OF BOARDS AND COMMISSIONS**

97-0317-07 Alcoholic beverage board minutes of January 15, 1997, meeting. -- Received

97-0317-08 Board of directors of trusts for Miller-Dwan Hospital and Medical Center: (a) Communication pertaining to the proposed request to the Minnesota Legislature to adopt legislation authorizing Miller-Dwan Medical Center to become a nonprofit corporation (97-0174R); (b) Minutes of: (1) December 19, 1996; (2) January 9, 1997; (3) January 16, 1997; (4) February 11, 1997, meetings. -- Received

97-0317-09 Board of zoning appeals minutes of January 28, 1997, meeting. -- Received

97-0317-10 Civil service board minutes of: (a) December 3, 1996; (b) January 7, 1997, meetings. -- Received

97-0317-11 Citywide citizens advisory committee minutes of February 25, 1997, meeting. -- Received

97-0317-14 Duluth airport authority minutes of January 21, 1997, meeting. -- Received

97-0317-15 Duluth housing trust fund board minutes of: (a) January 14; (b) January 31, 1997, meetings. -- Received

97-0317-16 Duluth SRO housing commission minutes of January 8, 1997, meeting. -- Received

97-0317-12 Housing and redevelopment authority of Duluth minutes of: (a) October 29; (b) November 26; (c) December 19, 1996; (d) January 28, 1997: (1) Regular; (2) Annual; (e) February 11, 1997, meetings. -- Received

97-0317-22 Planning commission minutes of: (a) January 14; (b) January 29, 1997, meetings. -- Received

97-0317-21 Special assessment board: (a) Minutes of February 25, 1997, meeting; (b) Report, findings and recommendations for proposed construction of sanitary sewer in Grand Avenue from 84th Avenue West to 250 feet southwesterly; (c) Report, findings and recommendations for proposed construction of sanitary sewer in Oneota Alley from 48th Avenue West to 290 feet westerly. -- Received

97-0317-17 Sanitary sewer board of WLSSD minutes of February 10, 1997, meeting. -- Received

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**RESOLUTION RECONSIDERED**

Councilor Keenan moved to reconsider Resolution 97-0174, by President Hardesty, requesting the Minnesota Legislature to adopt legislation authorizing Miller- Dwan Medical Center to become a nonprofit corporation, which motion was seconded.

Councilor Keenan stated he is requesting this action because he doesn't believe he has had enough time to study the issue.

Councilor Hogg noted that there has been lengthy discussion on this issue already and moved to call the question, which motion was seconded and carried upon the following vote:

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

Nays: Councilors Bohlmann, Keenan and Prettner Solon -- 3

Councilor Keenan's motion to reconsider the resolution failed upon the following vote:

Yeas: Councilors Bohlmann, Keenan, Prettner Solon and Talarico -- 4

Nays: Councilors Hales, Hogg, Rapaich, Wheeler and President Hardesty -- 5

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**RESOLUTION TABLED**

Councilor Rapaich moved to remove Resolution 97-0084, approving an agreement for services in the amount of \$14,700 with the Copeland Community Center, from the table, which motion was seconded and carried upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Councilor Hales stated that there are a number of issues left to be addressed with regard to this resolution. She noted that funding for this program has been cut and she would like to see a revised budget showing how the funds will be used. She said she is aware there are problems at Copeland which are being dealt with and she believes it is a critical neighborhood to have good programs for kids in. She said it appears that the Ordean Foundation is not funding the program and that United Way is going to fund the program on a quarterly basis. Councilor Hales noted that the United Way has detailed specific requirements to be accomplished and she recommended that the council incorporate some requirement of reporting progress to make sure the program is benefiting the neighborhood as expected.

Responding to Councilor Hales, Administrative Assistant Nollenberger stated that of the \$14,700, \$5,000 has already been extended, leaving \$9,700 yet to be disbursed. He stated that if she is recommending that disbursement of the remaining funds be contingent upon the city making equal disbursements at the same time the United Way funds are disbursed in order to have United Way monitor the performance of the Copeland Community Center, that is acceptable to the administration.

Councilor Hales moved to amend the resolution by replacing the last 1/2 of the paragraph after the words "during calendar year 1997" with "and which agreement is on file in the office of the city clerk as Public Document No. \_\_\_\_\_, and under which agreement payments shall be made from the General Fund 015-1514, aid to other agencies," which motion was seconded and carried upon a unanimous vote.

Resolution 97-0084, as amended, as adopted as follows:

BY COUNCILOR RAPAICH:

RESOLVED, that, contingent upon St. Louis County's making a similar monetary arrangement, the city is hereby authorized to enter into an agreement for services in the amount of \$14,700 with the Copeland Community Center, which funds shall be used to assist the center's operations during calendar year 1997, and which agreement is on file in the office of the city

clerk as Public Document No. 97-0317-47, and under which agreement payments shall be made from the General Fund 015-1514, aid to other agencies.

Resolution 97-0084, as amended, was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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### MOTIONS AND RESOLUTIONS

BY COUNCILOR RAPAICH:

RESOLVED, that Twin Ports Mailing be and hereby is awarded a contract for furnishing mailing services for the city clerk's division in accordance with specifications on its low specification bid of approximately \$5,500, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 015, Organization 1512, Object 5322.

Resolution 97-0115 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Eggebrecht Chevrolet-GEO be and hereby is awarded a contract for furnishing and delivering one Chevrolet 4-wheel drive suburban, Model 1500 for the police department in accordance with specifications on its low specification bid of \$28,358, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2006, Object V608.

Resolution 97-0125 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0167, by Councilor Rapaich, awarding contract to Ray Dahl Construction for labor and material to remodel offices for city clerk relocation in accordance with specifications on its low specification bid of \$6,950, was introduced for discussion.

Councilor Hogg stated that while a move of the city clerk's office from first to third floor may be more convenient for the city council, city clerk staff and the administration, he is concerned that it will make doing business with the office more difficult for the public. He spoke at length about government accessibility to the public and that he is troubled by the lack of discussion regarding this issue by the administration and council. He stated this should clearly have been a policy issue. Councilor Hogg moved to table the resolution in order to discuss the issue in more detail, which motion was seconded and failed upon the following vote:

Yeas: Councilors Bohlmann and Hogg -- 2

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

Councilor Rapaich said she didn't believe the change of floors will be an inconvenience to the public.

Councilor Bohlmann agreed that moving the clerk's function from first to third floor will be inconvenient, intimidating and more inaccessible for the public.

Responding to Councilor Hogg's comments, Mr. Nollenberger stated that this change has been considered an administrative issue and not a policy issue. He noted that not everything can be on the first floor and that the police department is in desperate need of space, which he

believes also serves the public, and it makes more sense to expand police operations to space adjacent to their present facilities.

Resolution 97-0167 was adopted as follows:

BY COUNCILOR RAPAICH:

RESOLVED, that Ray Dahl Construction be and hereby is awarded a contract for furnishing labor and material to remodel offices for the city clerk/council relocation in accordance with specifications on its low specification bid of \$6,950, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 700, Organization 1418, Object I701.

Resolution 97-0167 was adopted upon the following vote:

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

Nays: Councilors Bohlmann and Hogg -- 2

Approved March 17, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the Western Lake Superior Sanitary District be and hereby is awarded a contract for furnishing ash and refuse disposal as required during 1997 for the various departments and divisions in accordance with current approved W.L.S.S.D.'s disposal rates, annual expenditures to total approximately \$94,200, terms net 30, FOB disposal sites, payable out of various fund, dept./agency various, organization various, object various.

Resolution 97-0205 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Superior Ford, Inc., be and hereby is awarded a contract for furnishing and delivering four patrol cars and accessories for the police department in accordance with specifications on its low specification bid of \$78,688, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2007, Object V701, current fund amount is \$161,000.

Resolution 97-0206 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that McKays Fleet Services be and hereby is awarded a contract for furnishing and delivering four unmarked mid-size police squads for the police department in accordance with specifications on its low specification bid of \$52,100, terms net, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2006, Object V606.

Resolution 97-0207 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Maney International be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for International trucks as needed during 1997 for the fleet

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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services division, for an estimated total of \$14,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 97-0210 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Viking Electric Supply be and hereby is awarded a contract for furnishing and delivering approximately 9,000 fluorescent, incandescent and high intensity discharge lamps for the various departments/divisions in accordance with specifications on its low specification bid of \$12,200, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 97-0214 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Municilite Company, Inc., be and hereby is awarded a contract for furnishing and delivering annual requirements for strobe lights and lightbars for city vehicles in accordance with specifications on its low specification bid of \$8,000, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

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

Resolution 97-0215 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that St. Germain's Company be and hereby is awarded a contract for furnishing and delivering various paints, glass, acrylic, laminate and adhesive for the various departments/divisions in accordance with specifications on its low specification bid of \$10,600, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

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

Resolution 97-0216 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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

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

Resolution 97-0219 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Arrowhead Equipment Company be and hereby is awarded a contract for furnishing and delivering tires and tubes as needed for a 12 month period for the fleet services division in accordance with specifications on its low specification bid, estimated to total \$60,000, terms net 30, FOB destination, \$55,000 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221 and \$5,000 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5404.

Resolution 97-0222 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Integrated Office Solutions be and hereby is awarded a contract for furnishing and delivering a new Konica 4355 copier machine for the planning division in accordance with specifications on its low specification bid of \$13,974.87, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2100, Object B616.

Resolution 97-0224 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

WHEREAS, the city of Duluth desires to provide computer software training for city employees; and

WHEREAS, the city desires to hire a training firm to provide the computer software training services required to train city employees; and

WHEREAS, The Computer Learning Center, has submitted a proposal for providing computer software training services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with The Computer Learning Center, to provide the city with such computer software training services.

BE IT FURTHER RESOLVED, that the cost of said computer software training services, estimated at \$2,250, will be payable from the various fund, dept./agency various, organization various, object various.

Resolution 97-0246 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

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

COMMISSION ON AGING

Lorene M. Glenn for a term expiring July 1, 1999, replacing Bernice Cordell.  
Michael G. Bowes for a term expiring July 1, 1999, replacing Frederick Olson.  
Donald Mantay for a term expiring July 1, 1999, replacing Harold Rutka.  
Resolution 97-0169 was unanimously adopted.  
Approved March 17, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

COMMISSION ON DISABILITIES

Christopher Wakefield for a term expiring November 1, 1998, replacing Deborah Landin-Bohbot who resigned.  
Resolution 97-0170 was unanimously adopted.  
Approved March 17, 1997  
GARY L. DOTY, Mayor

- - -

Resolution 97-0171, by Councilor Bohlmann, confirming reappointment of David Wheeler to Duluth economic development authority, was introduced for discussion.

Councilor Bohlmann stated she will vote against the resolution because she does not support DEDA.

Councilor Wheeler stated he will abstain from voting on the resolution.

Resolution 97-0171 was adopted as follows:

BY COUNCILOR BOHLMANN:

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

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

David B. Wheeler for a term expiring April 27, 2003, subject to Resolution 89-0323.

Resolution 97-0171 was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Abstention: Councilor Wheeler -- 1

Approved March 17, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

WOMEN'S COMMISSION

Elizabeth Bieter for a term expiring September 17, 1999, replacing Esther Gieschen.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Sharon Roseen for a term expiring September 17, 1999, replacing Deborah Wittmann.  
Resolution 97-0173 was unanimously adopted.  
Approved March 17, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

DULUTH SRO HOUSING COMMISSION

Fletcher Hinds (St. Louis County social service) for a term expiring March 1, 1999, replacing Sharon Finch.

BE IT FURTHER RESOLVED, that Resolution 97-0128 appointing Arlene Bjorkman to this position passed February 10, 1997, be rescinded.

Resolution 97-0194 was unanimously adopted.  
Approved March 17, 1997  
GARY L. DOTY, Mayor

- - -

Resolution 97-0195, by Councilor Bohlmann, confirming appointments to the environmental advisory council, was introduced for discussion.

Councilor Bohlmann stated she has received several letters from individuals objecting to the gender balance of those being appointed to this council. She suggested tabling the resolution for more discussion.

President Hardesty reminded Councilor Bohlmann that these appointments are made by the mayor and that the council needs to vote them up or down.

Mr. Nollenberger stated that the mayor has received the same letters and after examining the appointments, has decided to stand by his decision.

Councilor Hogg expressed concern with regard to the gender balance and noted there is only one woman being appointed. He disagreed that the only option is to vote the resolution up or down.

Mr. Nollenberger noted that the ordinance indicates that the voting members shall be appointed by the mayor and confirmed by the city council and a minimum of four of these members shall be selected from lists of persons recommended by local environmental organizations. He said that did take place and the groups submitted as their representatives: Brian Fredrickson, St. Louis River Citizens Action Committee; James Harvie, Green Thumb; Robert Seitz, Isaac Walton League; and Thomas Zbaracki, Western Lake Superior Trolling Association. He noted that the guidelines for appointments have been satisfied.

Councilor Hogg said he didn't feel that the environmental groups making recommendations reflect the environmental community adequately.

Responding to Councilor Hales, Mr. Nollenberger confirmed that the mayor's advisory committee had difficulty getting names submitted for the council. He noted that environmental groups were sent letters twice and because of the lack of response on the part of the environmental groups, the mayor was given names of people as are presented in the resolution. He added that the Audubon Society recommended someone who lives outside the city limits, that there was one application from a sustainable farming group, there were recommendations from a council member from Hermantown and a letter from one individual citizen recommending three names. He noted that the mayor felt strongly that Duluth residents should be appointed to this council.

Councilor Hales felt the recommended appointees are very qualified and said it is unfortunate more names weren't submitted to create more balance.

President Hardesty said she is a strong supporter of women being involved in the community and said she prefers not to finalize this tonight and urge the mayor to try to find at least one or two women in the community who will share in this task.

Responding to Councilor Rapaich, Mr. Nollenberger stated that it is possible, but unlikely that some of the nonvoting members could be women.

Councilor Rapaich stated she feels the names that have been submitted are all qualified and that she would not like to see any of them removed.

Councilor Keenan said it is important that this council be in place and that he is disappointed that not enough names were submitted to create a gender balance. He didn't believe a committee meeting will accomplish anything but a delay in getting the council implemented.

Councilor Hogg said his intent is not to have a committee meeting but simply to indicate concern to the mayor. He moved to table the resolution, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Rapaich -- 1

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into amendments substantially in the form of the copy on file in the office of the city clerk as Public Document Nos. 97-0317-29 (a) and (b), to the contracts listed below, extending the term of each agreement for an additional six-month period at no change in project cost.

City Contract No. 17616 - Harbor View Residents Management Corporation.

City Contract No. 17617 - Portman Recreation Association.

Resolution 97-0177 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a sewer easement legally described as: five feet either side of the entirety of the common lot line between Lots 10 and 14, Block 1, Second Rearrangement, Congdon Park Division; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its August 13, 1996, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of a ten foot wide sewer easement described above, and as more particularly described on Public Document No. 97-0317-30.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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this resolution together with a plat showing the portion of the ten foot wide sewer easement to be vacated.

Resolution 97-0179 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

*(Editor's Note: This resolution is a duplicate of Resolution 96-0747, adopted on August 26, 1996.)*

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, DEDA desires to hire the city engineer to complete final design of 67th Avenue West from Fremont Street to Grand Avenue in Duluth, Minnesota, and to provide bidding services, construction survey and layout and construction inspection engineering services relating to the Fremont Point Phase III project; and

WHEREAS, the city has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with DEDA, a copy of which is on file in the office of the city clerk as Public Document No. 97-0317-31, for completion of final design of 67th Avenue West from Fremont Street to Grand Avenue in Duluth, Minnesota, and bidding services, construction survey and layout, and construction inspection engineering services relating to the Fremont Point Phase III project. The city shall be compensated by DEDA in an amount not to exceed \$57,997, payable from Capital Project Fund 865, DEDA Agency 860, Organization 7001 - Fremont, Object 5303 - engineering services.

Resolution 97-0181 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the Duluth Community Health Center Youth and Senior Citizen Health Assessment project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0317-32, with the Duluth Community Health Center of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$60,000, payable out of the 1997 Federal Program Fund 262 - Community Development - Duluth Community Health Center Account No. 6022.

Resolution 97-0184 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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Resolution 97-0185, by Councilor Prettnner Solon, granting a special use permit to Hegstrom Family Funeral Homes, Foley Chapel, for the installation of a crematorium on property located at 5405 Ramsey Street, was introduced for discussion.

Councilor Bohlmann expressed concern that a precedent is being set with regard to allowing this type of use permit in a residential neighborhood. She stated that permits for a crematorium should only be granted at cemeteries.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Councilor Talarico noted that another crematorium is planned in another area that is zoned industrial and agreed that a precedent is being set. He stated he would like the planning commission to study the issue and establish some regulations before allowing construction of these generally.

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

Joe Till, attorney for Hegstrom Family Funeral Homes, noted that his client has had a crematorium in the city of Superior which is surrounded by various businesses and residences for the last ten years. He explained how the system operates without odor. He noted that cremation is a service that is used by as many as 30 percent of the clientele because of its cost efficiency and its low impact on the environment.

Councilor Wheeler supported the resolution, stating that a crematorium is a very appropriate use for a funeral home.

Councilor Hogg stated that the planning commission voted eight to one on this issue and the only desenting was not opposed to the permit being granted, but to the process used to issue it. He noted there has been no opposition from the public regarding the issue.

Councilor Bohlmann requested a committee meeting with a public hearing. She urged the establishment of a set policy before granting any permits.

Councilor Hales called the question, which was seconded and carried upon a unanimous vote.

Resolution 97-0185 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Hegstrom Family Funeral Homes, Foley Chapel, has submitted to the city council a request for a special use permit for installation of a crematorium system on property described as Lots 9-16, Block 5, West Duluth First Division, and located at 5405 Ramsey Street; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood, if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Hegstrom Family Funeral Homes, Foley Chapel, to allow for the installation and operation of a cremation system at 5405 Ramsey Street, on the condition that the crematorium system be installed in accordance with the plan as identified as Public Document No. 97-0317-33.

Resolution 97-0185 was adopted upon the following vote:

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

Nays: Councilors Bohlmann and Talarico -- 2

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a ten foot wide sewer easement legally described as; an easement for a sanitary sewer ten feet in width lying five feet on either side of a line or lines described as follows: Beginning at the South end of the boundary line between Lots Nine and Ten, Block 5, Central Acres, Second Division, thence North along such boundary line a distance of 156 feet, thence at right angles to form an

east and west line with the easterly terminus of said east and west line being on the boundary line between Lots Eight and Nine and the westerly terminus of said east and west line being one foot west of the north and south center-line of Lot Ten; being located in the County of St. Louis and State of Minnesota; and

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

WHEREAS, the city planning commission approved unanimously, the vacation petition at its February 26, 1997 meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of the ten foot wide sewer easement described above, and as more particularly described in Public Document No. 97-0317-34.

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

Resolution 97-0186 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the Boys and Girls Club Youth and Family Center project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0317-35, with the Boys Club of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$80,000, payable out of the 1997 Federal Program Fund 262 - Community Development - Boys and Girls Club Youth and Family Center Account No. 6020.

Resolution 97-0193 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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Resolutions 97-0196 and 97-0197, by Councilor Prettner Solon, affirming and reversing, respectively, the decision of the board of zoning appeals to deny a request to relax the building height limitation from 30 feet to 38 feet for construction of a single family dwelling on property located at the southeast corner of Eighth Avenue West and Ninth Street, were introduced for discussion.

Councilor Prettner Solon stated that the unanimous decision of the council planning committee is to support Resolution 97-0196 which affirms the board of zoning appeals' denial of the variance.

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

Pat Rush spoke in favor of Resolution 97-0196. He said the design of the proposed structure does not fit into the neighborhood aesthetically and that he would not object if the applicant wants to build a regular house.

Resolution 97-0196 was adopted as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, Dr. Daniel Maryland has appealed to the city council the decision of the board of zoning appeals to deny a request to relax the building height limitation from 30 feet to 38 feet for construction of a single family dwelling on property located at the southeast corner of Eighth Avenue West and Ninth Street; and

WHEREAS, the city council has considered this appeal and determined that the required findings for granting of a variance to allow construction of a single family dwelling with a 38 feet building height cannot be made in this case based upon limits set forth in the zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the board of zoning appeals' decision of January 28, 1997, is hereby affirmed by the city council, and the appeal is denied.

Resolution 97-0196 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the Life House Youth Center project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0317-36, with Life House, Incorporated, of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$28,000, payable out of the 1997 Federal Program Fund 262 - Community Development - Duluth Life House Project Account No. 6028.

Resolution 97-0198 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the city council of the city of Duluth accepts a permanent public right-of-way easement substantially in the form of that on file in the office of the city clerk as Public Document No. 97-0317-37, from Asbury United Methodist Church relating to the construction of 67th Avenue West over the following parcels of property from Fremont Street to Grand Avenue:

Parcel A:

All of Lot 19, all of Lot 20, and the easterly 16.00 feet of Lot 21, Block 5, Hunter's Grassy Point Addition, 3rd Division, according to the recorded plat thereof.

Parcel B:

That part of the Northwest Quarter of Southeast Quarter (NW 1/4 of SE 1/4) of Section Thirteen (13), Township Forty-nine (49) North, Range Fifteen (15) West of the Fourth Principal Meridian described as follows:

Beginning at the most easterly corner of Lot 19, Block 5, Hunter's Grassy Point Addition, 3rd Division, thence southeasterly along the northeasterly line of said Lot 19 extended to intersection with a line parallel to and 200.00 feet southeasterly at right angles to the southeasterly line of said Block 5; thence southwesterly along said parallel

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line 91.83 feet; thence northerly, deflecting to the right 102 degrees 29 minutes 0 seconds 119.49 feet; thence southwesterly, deflecting to the left 102 degrees 29 minutes 0 seconds 29.00 feet; thence northwesterly deflecting to the right 90 degrees 0 minutes 0 seconds 63.00 feet; thence northeasterly, deflecting to the right 90 degrees 0 minutes 0 seconds 29.00 feet; thence northwesterly, deflecting to the left 90 degrees 0 minutes 0 seconds 20.33 feet, to a point on the southeasterly line of Block 5, Hunter's Grassy Point Addition, 3rd Division; thence northeasterly along said southeasterly line of Block 5 a distance of 66.00 feet to the point of beginning.

Resolution 97-0220 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 97-0317-38 with Maki & Overom, Chartered, for legal services related to the tax petitions filed by Consolidated Papers, Inc., on behalf of Lake Superior Paper Industries and Superior Recycled Fibers Industries in the amount of not to exceed \$12,000, payable from Tax Increment Financing District Number 6.

Resolution 97-0229 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement amending Resolution No. 94-0777 increasing the amount payable to Northspan Group, Inc., for services relating to securing of a State Economic Recovery Grant through Canosia Township for the Northwest Airlines Project in the amount of \$15,986.09, payable from Fund 420.

Resolution 97-0230 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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Resolutions 97-0235 and 97-0236, by Councilor Prettner Solon, authorizing amendments to skywalk agreements in the Bagley Block extending the hours of operation and authorizing agreement with GDC for skywalk security services in the amount of \$13,464, were introduced for discussion.

Councilor Hales supported extension of skywalk hours until 1:00 a.m., but not at additional expense to the city. She reviewed that when the budget for the Greater Downtown Council (GDC) was approved, there was discussion that of the \$87,000 allocated, there was an item in the amount of \$8,200 to be utilized for hours of operation, signage, security, cleaning and maintenance. She noted that there is also \$2,000 allocated for the skywalk system with regard to the weed and seed program and VIP program and questioned whether this additional \$13,464 is necessary.

Mr. Nollenberger noted that the previous agreements with the GDC didn't include a security element of the same nature. He said the \$81,000 includes skywalk cleaning, the cleanup of the Downtown out doors, a public information element and services for the Christmas City of the North celebration. He noted that the existing agreement covers only the hours of 7:00 a.m. to

7:00 p.m. Mr. Nollenberger went on to say that the property owners agreed to go along with the extended hours with the commitment that the city provide security in terms of security officers to patrol that part of the skywalk to protect it from vandalism such as what has already occurred along that stretch. He noted that the extension of hours is contingent on security being provided on a regular basis.

Councilor Hales stated that Mike Conlan, of the GDC, specifically stated when the budget was presented that the \$8,200 was for skywalk maintenance and security. She said she does not want to be told money is to be used for security if it is not. She requested that the GDC supply the council with a Form 990 to account for expenses.

Councilor Talarico made a motion to suspend the rules to hear a speaker, which motion was seconded and carried upon a unanimous vote.

Mr. Conlan said that all of the \$13,464 will be used for security purposes. He noted that administrative costs are not included although the GDC will administer the contract, hire security people at the request of the city and administer the private sector contributions so that the city does not have to pick up the full expense.

Responding to Councilor Hogg, Mr. Conlan said that all of the \$13,464 will go toward extending the hours of the skywalk, that the GDC will receive no funds for administering the contract and that private sector contributions are in addition to the \$13,464 being provided by the city to provide additional services.

Responding to Councilor Hales, Mr. Conlan stated that the security officer will be provided by a subcontractor.

Responding to Councilor Bohlmann, Mr. Nollenberger stated that provision of skywalk security during the hours of 7:00 a.m. to 7:00 p.m. is done by police officers who patrol the Downtown and is done by scheduling overtime. He said that the merchants also monitor the areas immediately adjacent to their stores and that when there are DECC events, the area between the DECC and the Holiday Mall is patrolled by the DECC at public expense. He added that the Holiday Mall maintains security at the Holiday Center as a requirement because they are a hotel.

Councilor Bohlmann opposed Resolution 97-0236 and stated that if merchants want the skywalk open after 7:00 p.m., the GDC should be responsible for all of the costs or it should be closed.

Responding to Councilor Bohlmann, City Attorney Dinan stated that the funds being given to the GDC to secure the skywalk is a justifiable public expense because the skywalk is a public system.

Resolution 97-0235 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into amendments to the skywalk agreements pertaining to the Beal Building, the Security Jewelers Building, the Peterson-Anderson Flowers Building, the Bagley Building, the Bennett's Building, the Duluth Camera Exchange Building and the Frame Corner Building providing for the extension of the hours of operation of the skywalk through said buildings upon provision by the city of additional skywalk security.

Resolution 97-0235 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Resolution 97-0236 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 97-0317-39, with the Greater Downtown Council for the provision of skywalk security services in the amount of not to exceed \$13,464, payable from General Fund 100, Agency 500, Org. 1950, property management division.

Resolution 97-0236 was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Approved March 17, 1997

GARY L. DOTY, Mayor

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Resolution 97-0077, by Councilor Keenan, authorizing execution of an agreement with the Duluth economic development authority relating to participation by the Duluth economic development authority in the city of Duluth self insurance fund program for 1997, was introduced for discussion.

Councilor Bohlmann opposed the resolution stating it is too risky to be liable for anything that happens on DEDA owned property. She said DEDA should have its own self insurance fund.

Resolution 97-0077 was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement between the city of Duluth and the Duluth economic development authority which allows the Duluth economic development authority to participate during 1997 in the city's self-insurance fund program, and which agreement is on file in the office of the city clerk as Public Document No. 97-0317-40.

Resolution 97-0077 was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Spirit Mountain recreation area authority which allows the authority to participate during 1997 in the city's self insurance fund for purposes of general liability, workers' compensation and employee honesty bond coverage, which agreement shall be substantially in the form of Public Document No. 97-0317-41, on file in the office of the city clerk.

Resolution 97-0078 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Duluth airport authority which allows the authority to participate during 1997 in the city's self

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insurance fund for purposes of workers' compensation and employee honesty bond coverage, which agreement shall be substantially in the form of Public Document No. 97-0317-42, on file in the office of the city clerk.

Resolution 97-0079 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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Resolution 97-0098, by Councilor Keenan, authorizing the city to contribute \$50,000 toward the design of the McQuade Road protected access project and \$12,500 toward the 1997 administrative costs of the McQuade Road protected access committee, was introduced for discussion.

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

Clyde Ritchie opposed the resolution for the following reasons: the Knife River Marina, which is a state designated safe harbor, is ten minutes up the shore; St. Louis County voters did not reelect the commissioner who was the promoter and chairperson for the McQuade project; Duluth Township voters did not reelect the township officer who was a promoter and supporter of this project. He said the Duluth Township and Lakewood Township boards have passed resolutions stating that they will not financially support the project. He advocated preserving the Congdon Trust.

Bill Beaudry, member of the McQuade Road public access committee, supported the project, stating that it will clean up and improve the area proposed for family recreation. He noted that officials from Lakewood Township, Duluth Township, St. Louis County and the city of Duluth have signed a joint powers agreement on the project. He noted that the committee has been overwhelmed with supportive statements and has received over 2,000 cards from supporters who wish to use it. He said local business people have expressed concern to him because over 70 percent of the vehicles at the Barker's Island launch site in Superior, Wisconsin, are from Minnesota. Mr. Beaudry said the Knife River Marina is unacceptable because people park their boats there for the entire summer, it has a very poor, shallow launch site, a very limited, poorly designed parking area, no facilities for handicapped fishing and very limited toilet facilities. He didn't believe that people who want to spend their money in Duluth should be told to go to Knife River, Two Harbors, Silver Bay or Superior, Wisconsin, to launch their boats. Mr. Beaudry stated that for those concerned about inexperienced boaters on the lake, there is no way to prevent smaller boats and inexperienced boaters from accessing Lake Superior. He noted that safety is of great concern and the committee intends to have the Coast Guard Auxiliary inspect boats at the site. He emphasized the financial benefits the community experiences which are related to the boating industry and urged the council to keep them in Duluth by funding the project.

Steve Running stated he originally opposed this project, but since sitting on the mayor's advisory board for a safe harbor, he supports it. With regard to the project adversely affecting the Congdon Trust property, he stated that shoreline erosion is rapidly washing the shoreline away and if something isn't done soon, the Congdon Trust will disappear. He said he felt that of the \$4.7 million needed for this project, a \$62,500 contribution is not a lot of money to ask for to get the project started.

Councilor Hogg noted that the city council supported establishing the joint powers agreement on the basis that there would be no cash contribution to the project from Duluth. He asked Mr. Running if this contribution will really make the project happen and stated that it would be easier



for him to support if he felt this would be the end of it. He asked what the county has agreed to contribute.

In response, Mr. Running stated that he is not in a position to respond to the financing of the project. He said he did not know what the county has agreed to and as to whether this contribution will make or break the project, he conveyed that he knows that state money is contingent upon local contributions. He said he senses that other funding sources are waiting for someone else to make the first contribution before they will commit financially.

In response to Councilor Wheeler, Mr. Running agreed that it is not necessary to spend \$4.7 million to save the Congdon Trust property. He noted that this is already a very commercially impacted area and that it is not an area that can be described as pure, pristine and necessary to preserve.

David Koneczny, representing the Western Lake Superior Trolling Association, stated that the association has been trying to get an access and safe harbor on Lake Superior since 1984. With respect to the Knife River Marina as a public access and safe harbor, he stated that a number of years ago the Lake County Board commission went on record at a North Shore harbor meeting by stating that the marina was set up primarily for boats that are put in the water and kept there for the entire season and they do not encourage, nor do they want, transient boaters coming into the marina. As to funding, Mr. Koneczny stated that Congressman Oberstar has a bill asking for a minimum of \$1.8 million and the state set aside \$500,000 for this project with the stipulation that there are to be matching funds either through the IRRRB or from some other entity. However, there is a bill being drafted at the present time to remove the \$350,000 matching funds requirement before using it. He explained that if this bill is passed, the \$500,000 could be used while working toward raising the \$350,000. He said the city and St. Louis County are being asked for \$50,000 each and an application to the IRRRB will be prepared requesting \$50,000. Responding to Councilor Hogg, Mr. Koneczny stated it is Mr. Oberstar's opinion that there is a very strong possibility of the project being funded and that the issue should be decided by October 1, 1997.

Owen Christensen stated he is a recreational boater and urged councilors to support the resolution.

Lennart Johnson, chairman of the Lakewood Township Board, stated that the township is supportive of this project. He said the township is unable to give money because all funds have to be levied, but intends to give in kind services such as the attorney fees which were donated to draw up the joint powers agreement. He said Duluth Township has contributed a parcel of land for the project.

Responding to Councilor Bohlmann, Mr. Johnson stated that Lakewood Township is willing to provide some maintenance of the access and emergency services.

Councilor Keenan noted that he was on Mayor Doty's original committee and didn't know in the beginning if he could support the project or not, but in working on the committee, he now supports it. He said he now is having second thoughts only because the city is being asked for \$62,000 and he has never said he will support a financial commitment by the city. He stated that he supports the project and is willing to commit the funds, with reservations, to move it forward. He noted that the project will provide a tremendous amount of access not just to boaters, but to anybody who wants to go out on the pier, which will be handicapped accessible, and it will provide an opportunity to remedy the erosion that is taking place in the area. Councilor Keenan suggested an amendment that makes the city's contribution contingent upon receipt of state funding of \$500,000 and a financial plan of the McQuade Road protected access committee to raise the additional \$350,000 to the administration before the city releases any monies.

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Mr. Nollenberger stated that Councilor Keenan's proposed amendment is within the spirit of the recommendation to the council and is acceptable to the administration.

Councilor Hogg supported the proposed amendment and stated that it addresses a number of his concerns. He noted that it's clear that there is broad public support for the project and he welcomed the information with regard to the Congdon Trust property erosion problem. He said his greatest concern is that the city will contribute \$50,000 now and next year the city will be asked for more while other entities have no money at risk. He said if the amendment passes, he will support the resolution.

Councilor Keenan made a motion to amend the resolution by adding the following words at the end of the first paragraph: "provided that such payment shall not be made until the state of Minnesota releases the \$500,000 it has appropriated for this project," which motion was seconded and unanimously carried.

Councilor Bohlmann expressed concern that the city will invest \$62,000 for this project now and that the investment will be used as reason to ask for more in the future. She said she was happy when the McQuade Road site was chosen because she didn't believe the city would be asked for any money. She noted that the site is outside the city limits and until St. Louis County and the townships of Lakewood and Duluth come up with contributions, she is unwilling to commit any funding at all for the project.

Councilor Wheeler said he won't support the resolution. He stated his concerns are with the safety of inexperienced boaters, that anything constructed along the North Shore can not withstand the forces of the lake and that hundreds of thousands of dollars will be necessary annually to maintain and keep the access structurally sound.

Councilor Keenan noted that the funds are coming from the capital portion of the revenues from the tourism fund.

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

Resolution 97-0098, as amended, was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that the city is hereby authorized to contribute \$50,000 toward the first phase design costs of the McQuade Road protected access project, which payment shall be made from the Tourism Tax Fund 258-030-1431-5490; provided that such payment shall not be made until the state of Minnesota releases the \$500,000 it has appropriated for this project.

RESOLVED FURTHER, that \$50,000 from the tourism tax capital projects reserve is hereby allocated to the Tourism Tax Fund 285-030-1431-5490.

RESOLVED FURTHER, that the city is hereby authorized to contribute \$12,500 toward the 1997 administrative costs of the McQuade Road protected access committee, which payment shall be made from the General Fund 100-020-1200-5100.

Resolution 97-0098, as amended, was adopted upon the following vote:

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

Nays: Councilors Bohlmann and Wheeler -- 2

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers hereby authorize Amendment #1 to Agreement #17789 with The Stanius Johnson Architects, Inc., for the sum of not to exceed \$5,500, from

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Capital Fund 450, Obj. C702, for providing certain architectural services to the city of Duluth in connection with the Duluth police firing range, Phase II, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 97-0317-43.

Resolution 97-0182 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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Resolution 97-0183, by Councilor Keenan, authorizing the execution of an agreement with Steve Dornfeld to operate the concessions and manage the golf facilities at the Enger Park and Lester Park golf courses.

Councilor Keenan moved to table the resolution for a committee meeting on March 31, 1997, which motion was seconded and unanimously carried.

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BY COUNCILOR KEENAN:

RESOLVED, that M.T.I. Distributing, Inc., be and hereby is awarded a contract for furnishing and delivering two golf course greens mowers for the golf courses in accordance with specifications on its low specification bid of \$24,007.23, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object V709.

Resolution 97-0211 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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Resolution 97-0212, by Councilor Keenan, establishing the 1997 golf cart rates, was introduced for discussion.

Responding to Councilor Bohlmann, Mr. Nollenberger stated that the recommendation from the parks department, which was voted on by the golf cart users, is that the use of private golf cart passes will be grandfathered in for 1997 and then will not be expanded in the future.

Resolution 97-0212 was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that pursuant to Section 35-15 of the Duluth City Code, the Duluth City Council hereby establishes rates for the use of motorized golf carts on municipal golf courses as set forth in Public Document No. 97-0317-44, on file in the office of the city clerk, effective upon the passage of this resolution, and does further rescind all former motorized golf cart rates.

FURTHER RESOLVED, that all such fees collected shall be deposited in the Golf Budget No. 503.

Resolution 97-0212 was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to accept \$20,415 in Minnesota youth works/american corps program funds from the Minnesota department of economic security for the period October 1, 1996, through August 31, 1997. Funds will provide work experience for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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ten participants who will do community service work 30 hours per week as tutors at local schools while they also pursue completion of their high school education, as needed. A copy of this grant agreement shall be on file in the city clerk's office as Public Document No. 97-0317-45.

FURTHER RESOLVED, that monies received under this grant shall be deposited in Fund 268, Budget Item 6262.

Resolution 97-0178 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with RREM, Inc., for professional services relating to providing engineering design, plans, specifications and construction engineering services for increasing fire water capacity and gas distribution capacity to the Duluth International Airport area, which agreement is on file in the office of the city clerk as Public Document No. 97-0317-46; payment not to exceed \$22,355 payable from the Public Utility Fund 510 and Gas Fund 520.

Resolution 97-0180 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth established the initial municipal state aid system of streets by resolution approved October 28, 1957, under the provisions of Minnesota Law 1957, Chapter 943; and

WHEREAS, it now appears that revisions in the municipal state aid system are necessary.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, that portions of 21st Avenue East, end of bridge to London Road, (+) 0.11 miles, is hereby designated as municipal state aid street of said city of Duluth.

Resolution 97-0187 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, by Resolution of Intent numbered 97-0044, the council did request the administration to prepare plans and specifications for the construction of a sanitary sewer in Grand Avenue from 84th Avenue West to 250 feet southwesterly (city job number 8980SA97); and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; proper notice has been sent to the benefiting property owners; the special assessment board has conducted a hearing to meet and hear any person affected by the proposed improvement or assessment; the special assessment board has submitted its report to this council pursuant to Section 45-79, Duluth City Code of 1959; and the said board, at the direction of the mayor, has furnished this council with information as required by Section 45-80 of the Duluth City Code of 1959.

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$24,000, payable from the Special Assessment Fund 810, Agency 038, Organization 5296, Object 5530, that all of the cost of said improvement be defrayed by special assessment against

the land and premises specially benefited; which land and premises are described in the report of the special assessment board; and which report is on file in the office of the city clerk as Public Document Number 97-0317-21(b); and which description is hereby incorporated herein by reference to said Public Document Number 97-0317-21(b); that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 97-0190 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, by Resolution of Intent numbered 97-0045, the council did request the administration to prepare plans and specifications for the construction of a sanitary sewer in Oneota Alley from 48th Avenue West to 290 feet westerly (City Job Number 8981SA97); and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; proper notice has been sent to the benefiting property owners; the special assessment board has conducted a hearing to meet and hear any person affected by the proposed improvement or assessment; the special assessment board has submitted its report to this council pursuant to Section 45-79, Duluth City Code of 1959; and the said board, at the direction of the mayor, has furnished this council with information as required by Section 45-80 of the Duluth City Code of 1959.

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$27,000, payable from the Special Assessment Fund 810, Agency 038, Organization 5297, Object 5530, that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefited; which land and premises are described in the report of the special assessment board; and which report is on file in the office of the city clerk as Public Document Number 97-0317-21(c); and which description is hereby incorporated herein by reference to said Public Document Number 97-0317-21(c); that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 97-0191 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, it appears that it may be necessary to construct a bituminous overlay in Branch Street Alley from 29th Avenue East to 30th Avenue East.

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of this council to cause this improvement to be made, provided that further information demonstrated that the improvement should be made.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will direct further procedures prescribed by Section 62 of the Charter.

Resolution 97-0200 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that city of Superior public works be and hereby is awarded a contract for disposal of sewage waste sludge from the sanitary sewers in Duluth for the sewer division in accordance with specifications on its low specification bid of \$25,000, terms net 30, FOB job sites, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0570, Object 5384.

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

Resolution 97-0203 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Asplundh Tree Expert Company be and hereby is awarded a contract for elm tree removal for the street/park maintenance division in accordance with specifications on its low specification bid of \$11,481, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5454.

Resolution 97-0204 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Ogstons, Inc., be and hereby is awarded a contract for furnishing and delivering snowplowing service for the street maintenance division in accordance with specifications on its low specification bid of \$6,000, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5441.

Resolution 97-0208 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that General Cleaning Specialists, Inc., be and hereby is awarded a contract for maintenance of the Washington Center for the property management division in accordance with specifications on its low specification bid of \$40,000, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5319.

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

Resolution 97-0221 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR TALARICO:

RESOLVED, that Grussendorf Nursery, Inc., be and hereby is awarded a contract for furnishing and delivering 500 trees of different species for the city tree nursery and various park and boulevard locations in accordance with specifications on its low specification bid of \$16,185.65, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5225.

Resolution 97-0223 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for street construction of Seventh Street, Fourth Street Alley and 11th Street Alley for the engineering division in accordance with specifications on its low specification bid of \$218,134.70, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9607, Object 5530; Special Assessment Fund 810, Dept./Agency 038, Organization 5282, Object 5530; and Special Assessment Fund 810, Dept./Agency 038, Organization 5283, Object 5530.

Resolution 97-0227 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Graybar Electric Company be and hereby is awarded a contract for furnishing and delivering 36 luminaires for the public works department/property management division in accordance with specifications on its low specification bid of \$54,341.20, terms net 30, FOB shipping point, freight allowed, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2120, Object 5530, 50 percent reimbursable by Minnesota department of transportation.

Resolution 97-0228 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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Resolution 97-0231, by Councilor Talarico, authorizing the proper city officials to enter into an agreement with L.H.B. Engineers and Architects to provide professional engineering services for preliminary engineering survey and design for Michigan Street realignment in Lincoln Park Business area, was introduced for discussion.

Councilor Talarico stated that there needs to be additional meetings on this issue and moved to table the resolution, which motion was seconded and carried unanimously.

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete a valuation consultation and/or appraisal reports; and

WHEREAS, the city desires to hire a consulting engineer to provide the services required to prepare a limited appraisal in a restricted report in compliance with USPAR for the 40± acre rear portion of 63± acre Levine and Sons site on Rice Lake Road, Duluth, Minnesota; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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WHEREAS, Peter J. Patchin and Associates, Inc., has submitted a proposal for valuation consultation services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Peter J. Patchin Associates, Inc., to provide the city with such valuation and/or appraisal report services.

BE IT FURTHER RESOLVED, that the cost of said valuation and/or appraisal report services, estimated at \$3,000, will be payable from the Self Insurance Fund 605, Dept./Agency 036, Organization 1651, Object 5319.

Resolution 97-0232 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

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

In front of 1315 Commonwealth Avenue;

In front of 1451 89th Avenue West;

In front of 2128 West Fourth Street;

In front of 2122 West Superior Street;

In front of 918 North Seventh Avenue East;

In front of 2132 East Fourth Street.

Resolution 97-0188 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, a no parking 2:00 a.m. to 6:00 a.m. November 1 through May 31 zone is hereby established for both sides of 29th Avenue West from Helm Street to Michigan Street.

Resolution 97-0189 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that Motorola Communications and Electronics be and hereby is awarded a contract for furnishing and delivering 14 portable radios and accessories for the police department in accordance with specifications on its low specification bid of \$9,799.30, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 2431, Object 5241.

Resolution 97-0202 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that Uniform Connection, Inc., be and hereby is awarded a contract for furnishing and delivering uniforms for the fire department in accordance with specifications on its low specification bid of \$9,000, terms net 30, FOB destination, \$5,000 payable out of General



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Fund 100, Dept./Agency 100, Organization 1502, Object 5218 and \$4,000 payable out of General Fund 100, Dept./Agency 100, Organization 1505, Object 5218.

Resolution 97-0217 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Baker Fire Equipment be and hereby is awarded a contract for furnishing and delivering 15 sets of turnout gear for the fire department in accordance with specifications on its low specification bid of \$10,185, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 100, Organization 1502, Object 5218.

Resolution 97-0226 was unanimously adopted.

Approved March 17, 1997

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the first time:

BY COUNCILOR PRETTNER SOLON

97-002 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A PORTION OF LOT 5, BLOCK 1, ONEOTA INDUSTRIAL PARK, TO NORTH STAR MARINE; AND ACCEPTING AN EASEMENT FOR PUBLIC RIGHT-OF-WAY OVER A PORTION OF LOT 7, BLOCK 1, ONEOTA INDUSTRIAL PARK, FROM NORTH STAR MARINE.

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BY COUNCILOR PRETTNER SOLON

97-003 - AN ORDINANCE AUTHORIZING EXECUTION OF DEVELOPMENT AGREEMENT WITH NORTH STAR FORD, L.L.C. AND AUTHORIZING SALE OF CERTAIN LANDS IN THE LINCOLN PARK BUSINESS DISTRICT.

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The meeting was adjourned at 10:50 p.m.

JEFFREY J. COX, City Clerk

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, March 24, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Keenan, Prettner Solon, Rapaich, Talarico and Vice President Wheeler -- 7

Absent: Councilor Hogg and President Hardesty -- 2

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Councilor Talarico announced that because of some technicalities, the resolutions listed on the agenda will not be considered at this meeting.

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The meeting was adjourned at 7:35 p.m.

JEFFREY J. COX, City Clerk

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, March 31, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: Councilor Rapaich -- 1

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0331-01 R. Patrick Contardo and Robyn S. Rostak submitting petition to construct a permanent street on Denney Drive from Skyline Parkway to approximately 792 feet northerly. -- Assessor

97-0331-17 Joseph Varda submitting petitions for construction of:

(a) Gas main in Arrowhead Road from northerly Swan Lake Road to approximately 259 feet westerly of Arlington Avenue (eight signatures);

(b) Water main in Arrowhead Road from Swan Lake Road to Stanford Avenue and from Super America Division utility easement easterly approximately 360 feet (ten signatures);

(c) Sanitary sewer on Arrowhead Road from Rice Lake Road to approximately 4,355 feet westerly (ten signatures). -- Assessor

97-0331-18 (a) Rosie Loeffler-Kemp; (b) Debbie Ortman submitting letters regarding proposed appointments to the environmental advisory council (97-0195R). -- Received

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**REPORTS OF OFFICERS**

97-0331-02 Assessor submitting letter of sufficiency regarding petition for vacation of 20th Avenue West between West Michigan Street and the railroad track. -- Received

97-0331-03 Community development and housing division submitting HRA report for the HUD CD-funded housing rehabilitation program for January 1997. -- Received

97-0331-04 Parks and recreation department director submitting Lake Superior zoological society minutes of January 30, 1997, meeting. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

97-0331-05 Board of zoning appeals minutes of February 25, 1997, meeting. -- Received

97-0331-06 Citywide citizens advisory committee draft minutes of March 11, 1997, meeting. -- Received

97-0331-07 Duluth housing trust fund board minutes of February 13, 1997, meeting. -- Received

97-0331-08 Duluth transit authority: (a) Minutes of February 26, 1997, meeting; (b) February 1997 income statement. -- Received

97-0331-09 Heritage preservation commission minutes of: (a) January 8; (b) February 12, 1997, meetings. -- Received

97-0331-10 Lawful gambling commission minutes of: (a) January 14; (b) February 11, 1997, meetings. -- Received

97-0331-11 Planning commission minutes of February 26, 1997, meeting. -- Received

97-0331-12 Sanitary sewer board for WLSSD minutes of March 3, 1997, meeting. -- Received

97-0331-13 Seaway Port authority of Duluth: (a) Minutes of January 21, 1997, meeting; (b) December 1996 balance sheet. -- Received

- 97-0331-14 Special assessment board minutes of March 11, 1997, meeting. -- Received  
97-0331-15 Technical design review committee for DWMX-D minutes of January 21, 1997, meeting. -- Received  
97-0331-16 Tree commission minutes of March 10, 1997, meeting. -- Received

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### RESOLUTIONS TABLED

Councilor Bohlmann moved to remove from the table Resolution 97-0195, confirming appointments to the environmental advisory council, which motion was seconded and carried upon a unanimous vote.

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

Kinnan Stauber stated that she has a concern regarding gender equity and asked what organizations the proposed appointees represent. She said she has information that of 33 applicants, only seven were women. She added that she fears the majority of groups represented are fishing and sporting organizations.

Addressing the gender issue, Councilor Hogg stated that being politically correct in making appointments doesn't matter to him, but he does feel that if groups are going to represent the community, there needs to be a sense of balance. He noted that in his experience with boards and commissions, women generally bring different perspectives to discussions than men do. He said he is not comfortable going ahead with the appointments as presented.

Responding to Councilor Hales regarding additional appointments made by the council, City Attorney Dinan stated that the City Charter provides for appointments to be made by the mayor with council confirmation for boards and commissions created by ordinance. He said that in order for the council to make their own appointments, the Charter or makeup of the council will have to be changed, which will require a lengthy delay.

Councilor Wheeler stated it is important that this task force be appointed, but cannot support it with the current gender balance.

Mayor Doty stated that with regard to input for this council, many organizations besides fishing organizations were contacted. With regard to gender equity, he stated that three of the women's names were provided by a city councilor from Hermantown, and he did not feel it appropriate to appoint people based on the recommendation of someone who has been actively involved in past controversy with the city regarding development in Duluth versus Hermantown, so he wasn't comfortable appointing those three people. Mayor Doty said he too is concerned about gender equity, and that it was overlooked when deciding on the appointments. Mayor Doty stated that for that reason he is willing to make some changes if that is what the council wishes, but that this will not set a precedent for future appointments.

Councilor Hogg made a motion to accept Mayor Doty's suggestion to send the resolution back to the administration, which motion was seconded and unanimously carried.

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Councilor Keenan moved to remove from the table Resolution 97-0183, authorizing the execution of an agreement with Steve Dornfeld to operate the concessions and manage the golf facilities at the Enger Park and Lester Park golf courses, which motion was seconded and carried upon the following vote:

Yeas: Councilors Hales, Keenan, Prettnner Solon, Talarico, Wheeler and President Hardesty -- 6

Nays: Councilors Bohlmann and Hogg -- 2

Absent: Councilor Rapaich -- 1

Councilor Hogg stated his concern that this contract has gone from hiring two pros for \$40,000 each to one pro for \$80,000. He questioned how this change will resolve the problems the golf courses are facing. Councilor Hogg stated doubt that the golf courses will ever be self sustaining and said there should be a limit to the amount of time that local taxpayers should have to subsidize golf operations at a loss. He said the city should sell the golf courses if they can't support themselves.

Councilor Keenan stated that the operations do make money, and that the problem was that there were two expansions of two golf courses at the same time, and there is no way the operations can pay for the infrastructure cost. He stated that it is unfortunate that this administration has inherited this debt load which will not be paid until approximately 2009. Councilor Keenan noted several entities that the city presently subsidizes and stated that for the golf courses to turn a profit would require 100 percent participation all year which is not possible with the weather Duluth experiences. He explained that the \$80,000 expenditure doesn't go directly to the pros, but is used for the salaries of staff that the pros employ for the operation of the clubhouses. He said the pros make their money based on incentives. He noted further that \$35,000 of the \$80,000 is to be used by Mr. Dornfeld to hire a pro for the Lester Park Golf Course.

Responding to Councilor Wheeler, Administrative Assistant Nollenberger stated that debt service is approximately \$350,000 per year and the subsidy is \$289,600.

Councilor Wheeler said he feels comfortable supporting the resolution and moved to call the question which motion was seconded and carried upon a unanimous vote.

Resolution 97-0183 was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Steve Dornfeld to operate the concessions and manage the golf facilities at Enger Park and Lester Park golf courses for a consideration of \$80,000. Said agreement shall be substantially in the form of that document on file in the office of the city clerk as Public Document No. 97-0331-19. These costs are to be paid from Golf Fund 503, Agency 400, Organization 0500.

Resolution 97-0183 was adopted upon the following vote:

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

Nays: Councilor Hogg -- 1

Absent: Councilor Rapaich -- 1

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

### **MOTIONS AND RESOLUTIONS**

Resolution 97-0192, by Councilor Wheeler, confirming assessment rolls levied to defray the assessable portions of the 1996 street program (Upper Woodland West, Lochaire/Parkville, Lower Lester Park 1, Lower Hunters Park and Jefferson Street/13th Avenue East), was introduced for discussion.

Councilor Hardesty stated she will abstain from voting on the resolution because she lives on one of the streets included in the assessment roll.

Councilor Wheeler stated he will abstain from voting on the resolution because he has relatives who live on one of the streets included in the assessment roll.

Resolution 97-0192 was adopted as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR WHEELER:

RESOLVED, that the assessment rolls levied to defray the assessable portions of the following be and the same are hereby confirmed:

1996 street improvement program:

Upper Woodland West, Contract No. 7013 (assessable portion - \$295,220.70); Wabasha Street from Woodland Avenue to Alden Avenue, Rendle Avenue from Anoka Street to Mankato Street, Ewing Avenue from Anoka Street to Wabasha Street;

Lochaire/Parkville, Contract No. 7014 (assessable portion - \$158,572.50); Claymore Street from Jean Duluth Road to Heather Avenue, Belaire Avenue from Claymore Street to dead end, Heather Avenue from Claymore Street to dead end;

Lower Lester Park 1, Contract No. 7015 (assessable portion - \$125,725.80); 52nd Street from London Road to Dodge Street, 54th Avenue East from London Road to Superior Street, 56th Avenue East from London Road to railroad right-of-way, 57th Avenue East from London Road to railroad right-of-way, Dodge Street from 52nd to 54th Avenue East;

Lower Hunters Park, Contract No. 7016 (assessable portion - \$324,393.30); Lakeview Drive from Arrowhead Road to Snively Road, Laurie Street from Snively Road to Lakeview Drive, Greenwood Street from Vermilion Road to Lakeview Drive, Waverly Street from Vermilion Road to Lakeview Drive, Arrowhead Road from Wallace Avenue to Victoria Street, Victoria Street from Arrowhead Road to dead end;

Jefferson Street/13th Avenue East, Contract No. 7017 (assessable portion - \$44,370); Jefferson Street from 13th to 14th Avenue East, 13th Avenue East from London Road to Superior Street.

Resolution 97-0192 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Prettner Solon and Talarico -- 6

Nays: None -- 0

Abstentions: Councilor Wheeler and President Hardesty -- 2

Absent: Councilor Rapaich -- 1

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary onsale nonintoxicating malt liquor license, subject to departmental approvals:

Hermantown Volunteer Fire Department, Inc., 4015 Airpark Boulevard, for April 12, 1997, with Dale Reno, manager.

Resolution 97-0254 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that Dempsey Business Systems be and hereby is awarded a contract for furnishing and delivering six direct access storage devices and one controller for the data processing division in accordance with specifications on its low specification bid of \$67,710.50, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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015, Organization 2107, Object E705.

Resolution 97-0260 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that Como Lube and Supplies, Inc., be and hereby is awarded a contract for pick-up, clean-up and disposal of solvents, paint thinners, anti-freeze, waste oil, lubricant grease and oil filters for the various city divisions pick-up sites in accordance with specifications on its low specification bid of \$17,061, terms net 30, FOB job site, payable out of various funds, dept./ agency various, organization various, object various.

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

Resolution 97-0262 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0272, by Councilor Bohlmann, authorizing a contract to Corporate Express for office landscape furnishings for the city clerk's office in an amount of \$26,224.18, was introduced for discussion.

Councilor Hogg stated he will not support the resolution because of the process used by the administration in the decision to move the clerk's office from the first to the third floor of City Hall. Councilor Hogg felt the city council should have been included in public discussions regarding the issue.

Resolution 97-0272 was adopted as follows:

BY COUNCILOR BOHLMANN:

RESOLVED, that Corporate Express be and hereby is awarded a contract for furnishing and installing office landscape furnishings for the city clerk's office, in accordance with plans and specifications as prepared by the city architect, in an amount of \$26,224.18, payable out of General Fund 100, Dept. 700, Org. 1418, Obj. 1701.

Resolution 97-0272 was adopted upon the following vote:

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

Nays: Councilor Hogg -- 1

Absent: Councilor Rapaich -- 1

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0273, by Councilor Rapaich, awarding contract to Duluth Clinic/St. Mary's for medical services, drug testing and alcohol testing in accordance with specifications on its low specification bid of \$70,000, was introduced for discussion.

Responding to Councilor Hogg, Mr. Nollenberger stated that the \$70,000 expenditure includes drug testing and different types of physical exams for new hires in order to register all existing conditions to protect the city's liability under workers' compensation and other issues of that kind. He added that periodic drug and alcohol testing on job-related activities is done.

Resolution 97-0273 was adopted as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR BOHLMANN:

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

Resolution 97-0273 unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that McKays Fleet Services be and hereby is awarded a contract for furnishing and delivering three police vehicles for the police department in accordance with specifications on its low specification bid of \$47,502, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2007, Object V701.

Resolution 97-0275 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that Ericsson G.E. Mobile Communications, Inc., be and hereby is awarded a contract for furnishing and delivering emergency radio equipment for the police department in accordance with specifications on its low specification bid of \$11,909.80, terms net 30, FOB shipping point, \$10,000 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2107, Object E726 and \$1,909.80 payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5580.

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

Resolution 97-0277 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor license, for the period ending August 31, 1997, subject to departmental approvals:

Holiday Inn of Tucumcari (Canal Park Inn), 250 Canal Park Drive.

Resolution 97-0283 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Bruce M. Wyman (Central Hillside) for a term expiring March 1, 1999, replacing Stephen Shepherd who resigned.

NEIGHBORHOOD ADVISORY COUNCIL



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Bruce M. Wyman (Central Hillside) for a term expiring March 1, 1999, replacing Stephen Shepherd who resigned.

Resolution 97-0092 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

SISTER CITY COMMISSION

Leonore Baeumler for a term expiring March 30, 2000.

Resolution 97-0252 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

SPECIAL BOARD OF REVIEW

William A. Spang (appraiser) for a term expiring July 31, 2000, replacing William Clements.

Resolution 97-0253 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0255, by Councilor Bohlmann, authorizing the city to employ Human Resource Development, Inc., to conduct a collaboration skills workshop at a cost to the city of \$1,750 plus expenses, was introduced for discussion.

Responding to Councilor Hogg, Mr. Nollenberger explained that a collaboration skills workshop was held about a year ago which was put on by the city's interaction committee, an employee training group, to work out changes in the organizational development and culture within the organization for city employees. He continued saying that approximately 25 to 30 percent of the city's employees attended the seminar last year and was so well received that it was decided to do it again for those who did not get to attend the first one. He said the purpose is to get employees to sit down and work together in order to come up with a better overall resolve. Mr. Nollenberger said he did not know if there is an employee evaluation process for the seminar.

Resolution 97-0255 was adopted as follows:

BY COUNCILOR BOHLMANN:

RESOLVED, that the city is hereby authorized to employ Human Resources Development, Inc., to conduct a collaboration skills workshop for the city, as set forth in the proposal on file in the office of the city clerk as Public Document No. 97-0331-20, at a cost to the city of \$1,750 plus expenses, which shall be payable from the General Fund 100-015-1510-5334.

Resolution 97-0255 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the SVCNDA West Duluth Housing Revitalization project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0331-21, with the Spirit Valley Citizens Neighborhood Development Association, Inc., Duluth Minnesota (SVCNDA) to implement the above project. Payment for said services shall not exceed \$75,000, payable out of the 1997 Federal Program Fund 262 - Community Development - SVCNDA West Duluth Housing Revitalization Project Account No. 6005.

Resolution 97-0225 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0234, by Councilor Prettner Solon, requesting the board of county commissioners of St. Louis County to withhold from sale certain tax forfeited parcels, was introduced for discussion.

Councilor Hogg said he didn't believe the reasons listed to hold some parcels from public sale are valid. He said just because there is no sanitary sewer, or the property is located in flood fringe or a floodway should not mean that they cannot be owned by private parties and generating taxes. He stated he will not support the resolution.

Resolution 97-0234 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the Duluth City Council concurs with the Board of County Commissioners of St. Louis County with their classification as conservation lands the following parcels from the county auditor's list of properties which have been declared tax-forfeited and title thereto vested in the state:

<u>Legal Description</u>	<u>Location</u>	<u>Reason</u>
Lot 6, Block 2, Brighton Gardens First Division (10-280-410)	North side of Superior Street between Chase Avenue and Pleasant Avenue (North Shore)	lack of sewer
Lots 2, 3 and 4, Block 5, Bristol Beach 2nd Division (10-310-620)	East side of east Leigh Avenue between Gayhurst Street and Seafield Street (North Shore)	drainage course
Lots 17 - 21, Block 29, Duluth Heights Sixth Division (10-890-9360)	North side of Palmetto Street between Ebony Avenue and Teal Avenue (Duluth Heights)	land assembly
Lots 97, 99, and 101, Block 137 Duluth Proper Third Division (10-1350-10560)	North of Ninth Street between Seventh Avenue and Sixth Avenue West (Duluth Heights)	tower farm
Lots 101 and 103, Fond du Lac First Street (10-1590-300)	South of First Street between 130th Avenue and 129th Avenue West (Fond du Lac)	flood fringe

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Lot 105, Fond du Lac First Street (10-1590-320)	South of First Street between 130th Avenue and 129th Avenue West (Fond du Lac)	flood fringe
Lots 107, 109, and 111, Fond du Lac First Street (10-1590-330)	South of First Street between 130th Avenue and 129th Avenue West (Fond du Lac)	flood fringe
Lots 104 - 120 even number lots, Fond du Lac Second Street (10-1600-1460)	North of Second Street between 130th Avenue and 129th Avenue West (Fond du Lac)	floodway
Lots 101 - 125 odd number lots except State Highway, Fond Du Lac Third Street (10-1610-510)	North of Second Street between 130th Avenue and 128th Avenue West (Fond du Lac)	floodway
Lots 162 - 172 even number lots, Fond du Lac Third Street (10-1610-1640)	North of Third Street between 127th Avenue West and 126th Avenue West (Fond du Lac)	flood fringe
Lot 110, Fond du Lac Itasca Street (10-1680-720)	North of Itasca Street between 130th Avenue and 129th Avenue West (Fond du Lac)	floodway and flood fringe
Lot 8, Block 93 except railway right-of-way, London Addition to Duluth (10-3030-3250)	North of Superior Street between Robinson Street and Regent Street (Lakeside)	sight clearance of intersection
Easterly 25 feet of Lot 3, Block A, London Addition to Duluth (10-2960-40)	South of London Road between 42nd Avenue East and 45th Avenue East (Lakeside)	creek ravine
Lot 17, Block 7, Nortons Lakewood Gardens (10-3530-1600)	North of Shelby Street between 78th Avenue East and 79th Avenue East (North Shore)	lack of sanitary sewer
Lot 7, Block 12, Nortons Lakewood Gardens (10-3530-2550)	North of North Shore Road between 80th Avenue East and Lakewood Road. (North Shore)	lack of sanitary sewer

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Lot 11, Block 12, Nortons Lakewood Gardens (10-3530- 2590)	North of North Shore Road between 80th Avenue East and Lakewood Road (North Shore)	lack of sanitary sewer
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Resolution 97-0234 was adopted upon the following vote:

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

Nays: Councilor Hogg -- 1

Absent: Councilor Rapaich -- 1

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0237, by Councilor Prettner Solon, transferring funds within the 1997 HUD community development block grant program, was introduced for discussion.

Councilor Hales questioned if it is necessary to add \$20,000 to the Housing and Redevelopment Authority (HRA) housing rehabilitation project when a substantial amount was extended last year. She said that home ownership programs are popular in her district and are in need of more funding. She noted that last year during the funding process the request of Neighborhood Housing Services was cut by 50 percent while the HRA received almost all of what was requested. She proposed deleting the HRA allocation in the resolution for an explanation as to why the HRA continues to be so heavily funded.

Responding to Councilor Bohlmann, Mr. Nollenberger explained that after allocations for 1997 were made, there remained \$15,000 in the contingency fund. He said \$128,000 was received in bonus bucks that was added to the contingency fund for a total of \$143,000. He continued saying that now \$103,000 of the bonus bucks are being allocated, which leaves \$40,000 remaining in the contingency fund.

Responding to Councilor Hogg, Mr. Nollenberger explained that the last item on the resolution, 6035 - neighborhood planning, was the citywide citizens advisory committee (CCAC) recommendation to increase staff costs relating to additional neighborhood planning activities.

Councilor Hogg stated that while he shares Councilor Hales' concerns regarding the HRA allocation, he will support this resolution as presented, acknowledging that the CCAC has spent a lot of time and effort in their recommendation.

Resolution 97-0237 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth has received an additional funding allocation for the HUD-funded Community Development Block Grant (CDBG) Program in the amount of \$128,000, based on the city's application to HUD for \$3,500,000 and the final grant award of \$3,628,000; and

WHEREAS, the citywide citizens advisory committee (CCAC) for the CDBG Program at their meeting on March 11, 1997, has passed a resolution recommending funding changes as set forth below;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized to make the following funding transfers in the Federal Program Fund 262- 1997 HUD-funded community development accounts as set forth below:

1997 Duluth HUD Funded CDBG Program

<u>Account</u>	<u>Project</u>	<u>Original</u>	<u>Mod.</u>	<u>Revised</u>
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

6036	Contingency	\$143,421	- 103,000	\$ 40,421
6001	HRA housing rehabilitation	800,000	+ 20,000	820,000
6007	West Duluth streets & sewers	309,000	+ 1,000	310,000
6011	Hillside Sport Court	70,000	+ 22,000	92,000
6016	West Duluth sidewalk safety	1,000	+ 21,000	22,000
6020	Boys/Girls Club Youth/Family Center	80,000	+ 8,000	88,000
6022	Duluth Community Health Center	60,000	+ 5,000	65,000
6023	YWCA East Hillside/Endion Kids Corner	60,000	+ 6,000	66,000
6035	Neighborhood planning	80,000	+ 20,000	100,000

Resolution 97-0237 was unanimously adopted.  
 Approved March 31, 1997  
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to reclassify from conservation to nonconservation and to offer for sale the following tax forfeited parcels now withheld from sale in conservation:

<u>File #</u>	<u>Applicant name</u>	<u>Legal description</u>	<u>Location</u>
97015	St. Louis County	Lot 1, block 29, New Duluth First Division (10-3430-9330)	west side of 97th Avenue West between Bowser Street and Goodhue Street (Gary-New Duluth)
97016	St. Louis County	Lots 7-8, block 19, Hunters Grassy Point (10-2340-120, 130)	west side of 63rd Avenue West between Fremont and Waseca Streets (Fremont).

BE IT FURTHER RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to free-convey to the city of Duluth a certain parcel now classified as conservation for the purpose of the placement of a neighborhood information sign and potential development of off street parking for users of the Munger Trail:

<u>File #</u>	<u>Applicant name</u>	<u>Legal dDescription</u>	<u>Location</u>
97017	City of Duluth community development	Lots 1-8, except westerly ten feet, block 55, Ironton Second Division (10-2530-11420) and that portion of lots 1-8, block 55 lying within ten feet of the easterly line of Grand Avenue (10-2530-11415)	southwest corner of intersection of Grand Avenue and Riverside Drive (Riverside).

Resolution 97-0238 was unanimously adopted.  
 Approved March 31, 1997  
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the Neighborhood Youth Services

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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(NYS) project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0331-22, with Woodland Hills, Inc., of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$40,000, payable out of the 1997 Federal Program Fund 262 - Community Development Neighborhood Youth Services Account No. 6025.

Resolution 97-0240 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0244, by Councilor Prettner Solon, authorizing agreements between the city of Duluth and certain organizations for various neighborhood improvement projects for Round 1, 1997, neighborhood matching grants fund, was introduced for discussion.

Responding to Councilor Hales, Mr. Nollenberger stated that there are very few funds left for Round 1, 1997, matching grants, but noted there is still \$60,000 to be allocated for Round 2. He clarified that the mayor and council feel this is a popular program and have chosen to budget for it \$120,000 per year since 1994. He said there are no plans to discontinue the program.

Councilor Hales stated that it is unfortunate that neighborhood block clubs and groups cannot be funded through this program. She requested that some means of funding for these groups be explored.

Councilor Keenan complimented the mayor on funding this program and called attention to the way neighborhoods are being brought together and working with each other.

Councilor Talarico said he believes the programs Councilor Hales spoke of can be at least partially funded and he recommended encouraging the groups to continue applying for the funds.

Resolution 97-0244 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into individual neighborhood matching grants fund agreements with the organization grantees listed below, substantially in the form of that on file in the office of the city clerk as Public Document Nos. 97-0331-23; for the following amounts and projects listed:

Tier II Grants

<u>Amount</u>	<u>Project</u>	<u>Organization</u>
\$ 6,280*	Central Hillside Community Club sign	Central Hillside Community Club
\$16,400	Chester Park School playground renovation	Chester Park School Parent Teacher Association (PTA)
\$20,000	Jean Duluth soccer complex	East Soccer Club Lakeside/Lester Park Soccer Club, Woodland Soccer Club Congdon Soccer Club, Chester Park Soccer Club, Glen Avon Soccer Club, Holy Rosary Soccer Club and Lakewood Soccer Club (Eastern Soccer Clubs) and Arrowhead Youth Soccer Association

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\$20,000	Lake Park Little League road/ parking/facility improvements	Lake Park Little League Association
\$17,251	Youth Intervention and Prevention Program	Lester Park/Lakeside Youth Coalition and Duluth Area Family Services Collaborative
\$10,540	The Cultural Peer Residency Program	St. James Home of Duluth, Inc. DBA Woodland Hills
\$90,471	Total grants (Tier II)	

\*The Central Hillside Community Club project was approved for funding, contingent on a cooperative agreement on the design of a sign between the Central Hillside Community Club and city staff. The current design in their application was not approved; however, the review teams have recommended that up to \$6,280 be approved to equal the amount of their indicated match on the application.

FURTHER RESOLVED, that the administrative assistant is authorized to increase the amount payable under any of the individual neighborhood matching grants fund agreements, upon proof of unanticipated cost overruns beyond the control of the grantee, provided, however, that the total amount (including cost overruns), of the Tier II neighborhood matching grants authorized by this resolution, as well as Tier I grants which are approved by the city interdepartmental team for projects ranging from \$500 to \$3,000, shall not exceed \$92,000.

Resolution 97-0244 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the Duluth Hunger Project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0331-24, with the Churches United in Ministry (CHUM), agent for the Duluth Hunger Project, to implement the above project. Payment for said services shall not exceed \$80,000, payable out of the 1997 Federal Fund 262 - Community Development - Duluth Hunger Project - Account No. 6021.

Resolution 97-0249 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the McQuade protected access committee continues to make progress on the project; and

WHEREAS, the committee desires to continue to have public information services provided; and

WHEREAS, Margaret R. Colombo has satisfactorily performed such services previously for the committee; and

WHEREAS, the city council has recently approved funding for this project; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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WHEREAS, the state of Minnesota department of natural resources has agreed to continue to assist with the financing of the costs of public information services; and

WHEREAS, the McQuade protected access committee recommends the agreement with Margaret R. Colombo be amended for her services.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are hereby authorized to increase existing agreement #17222 with Margaret R. Colombo for public information services to an amount not to exceed \$32,400 payable from Fund 100, Agency 105, Org. Misc. 2020, Obj. MS 26; said agreement to be substantially in the form of Public Document No. 97-0331-25 on file in the office of the city clerk.

Resolution 97-0267 was adopted upon the following vote:

Yeas: Councilors Hales, Hogg, Keenan, Prettnner Solon, Talarico and President Hardesty -- 6

Nays: Councilors Bohlmann and Wheeler -- 2

Absent: Councilor Rapaich -- 1

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the McQuade protected access committee continues to make progress on the project; and

WHEREAS, administrative services will be required for the next 18 months in order for the committee to complete its current work; and

WHEREAS, an existing agreement with Cheryl Erickson has been completed; and

WHEREAS, the city has recently approved funding for this project; and

WHEREAS, the state of Minnesota department of natural resources has agreed to also contribute to the continuing costs of the administrative services; and

WHEREAS, the McQuade protected access committee recommends Cheryl Lynn Erickson be contracted for the services based on her past performance in working for the committee.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are hereby authorized to increase existing agreement #17153 with Cheryl Lynn Erickson for administrative services in an amount not to exceed \$22,500 payable from Fund 100, Agency 015, Org. Misc. 2020, Obj. MS 26; said agreement to be substantially in the form of Public Document No. 97-0331-26 on file in the office of the city clerk.

Resolution 97-0269 was adopted upon the following vote:

Yeas: Councilors Hales, Hogg, Keenan, Prettnner Solon, Talarico and President Hardesty -- 6

Nays: Councilors Bohlmann and Wheeler -- 2

Absent: Councilor Rapaich -- 1

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the McQuade protected access committee formed under the direction of the township of Duluth continues to make positive progress; and

WHEREAS, the direct role of the city is now largely limited to serving as the fiscal agent; and

WHEREAS, the state of Minnesota has agreed to provide the city of Duluth with administrative support funding in an amount of an additional \$25,000 to the McQuade protected access project.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are authorized to execute



an amendment to Agreement No. 17603 with the Minnesota department of natural resources to assist with the administrative responsibilities of the McQuade protected access committee under the direction of the township of Duluth in an amount not to exceed \$84,000 to be deposited in the General Fund 100, Administrative Services 015, miscellaneous, Organization 2020; said agreement to be substantially in the form of that certain document on file in the office of the city clerk as Public Document No. 97-0331-27.

Resolution 97-0280 was adopted upon the following vote:

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

Nays: Councilors Bohlmann and Wheeler -- 2

Absent: Councilor Rapaich -- 1

Approved March 31, 1997

GARY L. DOTY, Mayor

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Resolution 97-0281, by Councilor Prettner Solon, authorizing the execution of an agreement with Hyettpalma, Inc., to present a Downtown economic summit in Duluth, was introduced for discussion.

Councilor Hales objected to hiring an out of town consultant to facilitate an economic summit and questioned the need for it. She encouraged a meeting of Downtown merchants and businesses to discuss their direction without cost to the taxpayers. She noted the financial assistance the city and DEDA have provided to the Greater Downtown Council (GDC), and said she prefers the Downtown businesses to take a financial interest in this summit by sharing the costs.

Councilor Wheeler supported hiring this firm, and said he believes it has expertise in this area and can provide comparison of Duluth to other cities. He agreed that the GDC take some ownership in the project and share in the costs for the consultant.

Councilor Hogg agreed that Downtown businesses should be willing to make an investment in their future by participating financially since they will benefit from what comes out of the summit. He said he felt this planned summit is premature and agreed that there should be some meeting of those involved to outline what they believe the problems in the Downtown are. Councilor Hogg encouraged Mayor Doty to appoint a task force for that purpose.

Councilor Bohlmann questioned whether it is the board of the GDC or all Downtown businesses making the request for this summit. She said the cost of the summit should come out of the GDC budget.

Councilor Prettner Solon stated support for the agreement and said the purpose of the consultant is to provide an opportunity for all Downtown business people to come together for discussion. She said it does not preclude additional meetings, and suggested that there will be an action plan developed, so that there will be a continuance of working together to enhance the Downtown.

Mayor Doty stated that this issue has been discussed with Mike Conlan and the board of the GDC for some time, and that Mr. Conlan just happened to run across this group which has done this type of planning all over the country. He noted numerous changes in the Downtown that have occurred over the past 15 years and said it is time to stand back and look at the direction the Downtown has taken and to plan again for the future. He said the summit is intended for more than just the members of the GDC and Downtown businesses, and that it is planning the city needs to do to determine future direction. He said he believes that having the GDC be a financial sponsor will do more harm than good because other businesses may perceive it to be

restricted to those businesses in the Downtown. He noted that the cost of the consultant includes more than just the four hours the summit presentation will take.

Councilor Hales said she is not convinced that problems exist in the Downtown and said it is not fair to give an additional \$4,500 to the Downtown businesses when other neighborhoods and businesses could use it just as much. She said an invitation to all city businesses to meet for future planning without expense seems more logical.

Councilor Keenan said he supports the Downtown but is confident that the GDC and business people can pay for all expenses, including hotel rooms and flights, and make partnerships work. He moved to amend the resolution to change the amount "\$4,500" to "\$3,000," which motion was seconded.

Councilor Talarico stated that he will not support the amendment. He agreed with Mayor Doty that the concept of this program is to bring everybody together as a kick off to get them excited to get started and to reexamine the direction of the Downtown. He said in the long run, businesses are going to have to buy into this program to support the Downtown, and he said by amending the resolution to require up front funds at this late date is the wrong approach.

Councilor Wheeler stated that it makes more sense if this summit is intended to be a kick off event and he withdrew his second to the amendment.

The amendment was seconded by Councilor Hales.

Councilor Keenan stated that the issue has just been proposed to the council, and that it is not too late to ask for financial participation from Downtown businesses. He stated there are enough major hotels in the Downtown to pay for lodging and air fare to save city taxpayers \$1,500. He said the businesses should be able to pay for the expenses without distress and the city could then be responsible for the programming and advice that the consultant provides.

Mr. Nollenberger reminded the council of several specific instances that have occurred in the last two years where neighborhood businesses requested funds from the economic development fund which were approved by the council without the requirement of matching funds. He stated that if the council wishes to change the rules at this time, he needs to let businesses know that.

President Hardesty said she likes the idea of this project being owned by the city and Duluth economic development authority (DEDA) and did not support the amendment.

Councilor Keenan's amendment failed upon the following vote:

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

Nays: Councilors Prettnner Solon, Talarico, Wheeler and President Hardesty -- 4

Absent: Councilor Rapaich -- 1

Councilors Keenan, Hogg, Wheeler and Hales stated support for the resolution and encouraged the administration to work with Downtown hotels to cut the cost of expenses.

Councilor Bohlmann opposed the resolution and said the Downtown businesses get free handouts whenever they ask and she believes they should be willing to at least share in the costs.

Resolution 97-0281 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with HyettPalma, Inc., for the development and presentation of a downtown economic summit in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Duluth, for a consideration of not to exceed \$4,500, payable from Economic Development Fund 255.

Resolution 97-0281 was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Absent: Councilor Rapaich -- 1

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Arrowhead Zoological Society, Inc., under which the society will provide certain services at the Lake Superior Zoological Gardens for a period of 20 years, which agreement is on file in the office of the city clerk as Public Document No. 97-0331-28, at a cost to the city of \$75,000 per year plus 25 percent of zoo admission revenues in excess of \$250,000 each year, which shall be payable from the Zoo Fund 504 - administration and General 0500.

Resolution 97-0213 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proer city officers are hereby authorized to execute agreements with the folowing individuals or groups to provide programs at the library: Will Hale (\$450), Kit & Kaboodle (\$450), Kevin McMullin (\$250), Doug Wozniak (\$450), The Splatter Sisters (\$600) and Tim Gabrielson (\$450) for a total of \$2650. Payable from General Fund 100, Agency 300, Organization Library Services 1702, Object 5319 Other Professional Services.

Resolution 97-0248 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

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Resolution 97-0268, by Councilor Keenan, authorizing agreement with the YMCA to operate the Washington Center swimming pool for consideration of \$2,850 per month, was introduced for discussion.

Councilor Keenan supported the resolution while stating he feels the need will be more than what the resolution provides for.

Councilor Hales supported the resolution but expressed concern that the expected revenue is approximately \$200,000 less than upkeep for the public space is.

Responding to Councilor Hogg, Mr. Nollenberger stated that with regard to the pool, the drain and liner issues have been resolved and have been certified by the state health department.

Councilor Bohlmann said she will support the resolution because she wants the pool available to residents this summer. She stated her displeasure at the content of the contract and didn't agree that the YMCA should have free access to the pool for their own programs for more hours per day than are available for public swimming. She expressed concern that the city is solely responsible for all of the liability with regard to the pool. She encouraged the city to explore programs offered by the community schools program.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Councilor Wheeler stated he will abstain from voting on the resolution because of his position on the board of directors of the YMCA.

Councilor Hogg noted that this contract provides children with some swimming opportunities that would not otherwise be there while creating some revenue to help offset the expenses.

Mr. Nollenberger stated that the city will pursue asking businesses to sponsor open swims and follow up with other suggestions offered by councilors to make the pool more available to the public.

Resolution 97-0268 was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement filed as Public Document No. 97-0331-29, with the Duluth Area Family YMCA, under which said YMCA will operate a Washington Center pool program for the city for a consideration of \$2,850 per month, said amount payable from parks and recreation Account 100-400-1812-Washington 5300.

Resolution 97-0268 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

RESOLVED, that proper city officers are hereby authorized to modify agreement 17735 between the St. Louis County Board of Commissioners and the city of Duluth job training programs division, by adding a functional work literacy training component under the S.T.R.I.D.E. program as described in the purchase of service agreement addendum dated January 1, 1997, to June 30, 1997, and by accepting an additional \$30,000 in S.T.R.I.D.E. program funding to operate said training component. Total S.T.R.I.D.E. program budget is increased by \$30,000 to a total of \$571,330. A copy of this modification shall be on file in the city clerk's office as Public Document No. 97-0331-30.

FURTHER RESOLVED, that monies received under this modification shall be deposited in Fund 269, Budget Item 6274.

Resolution 97-0233 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to accept on behalf of the city of Duluth, pursuant to the Laws of Minnesota, 1967, Chapter 374, a National Senior Citizens Education and Research Center (N.S.C.E.R.S.C.) EXTRAIDE grant in the amount of \$5,151 for the period February 11, 1997, through June 30, 1997. A copy of this agreement is on file in the city clerk's office as Public Document No. 97-0331-31.

FURTHER RESOLVED, that amounts received pursuant to this grant be deposited in Fund #270, Budget Item #6340.

Resolution 97-0241 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Independent School District 709/area learning center for the provision of functional work literacy program services to mandatory STRIDE unemployed parents lacking English proficiency at cost not to exceed \$24,883 for the period January 1, 1997, through June 30, 1997. A copy of this agreement shall be on file in the city clerk's office as Public Document 97-0331-32.

FURTHER RESOLVED, that costs incurred under this agreement shall be charged to Fund 269, Budget Item 6274.

Resolution 97-0250 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to modify city Contract #17750 to accept an additional \$25,984 from the National Senior Citizens Education and Research Center (NSCERC) to operate the Title V senior aide program from July 1, 1996, through June 30, 1997. Total grant amount is \$214,788. A copy of this modification shall be on file in the city clerk's office as Public Document No. 97-0331-33.

FURTHER RESOLVED, that monies receive pursuant to this grant shall be deposited in Fund #270, Budget Item 6323.

Resolution 97-0251 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

WHEREAS, various private parties have constructed and paid for water and gas main extensions as listed in Exhibit A (Public Document No. 97-0331-34); and

WHEREAS, the private parties have executed application agreements in accordance with Article VII, Division 2, Section 45 of the Duluth City Code; and

WHEREAS, the various parties desire to dedicate to the city of Duluth the constructed water and gas mains; and

WHEREAS, the water and gas department performed the inspection of the construction of said water and gas mains, plans of which are on file in the engineer's office of the water and gas department, and now finds the construction to be wholly acceptable.

NOW, THEREFORE, BE IT RESOLVED, that upon the recommendation of the director of the water and gas department, the privately constructed water and gas mains as listed in Exhibit A are hereby accepted and he be authorized to include such water and gas mains as part of the water and gas system of the city of Duluth.

ALSO RESOLVED, that the city council ratifies and approves the execution of the following water and gas main extension agreements and approves the granting of payment to the developer any connection charges which the city may receive from third party service connections, under Section 48-222 of the City Code with ten years of the date indicated on Exhibit A.

Resolution 97-0242 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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WHEREAS, various private parties have constructed and paid for water and gas main extensions as listed in Exhibit A (Public Document No. 97-0331-35); and

WHEREAS, the private parties have executed application agreements in accordance with Article VII, Division 2, Section 45 of the Duluth City Code; and

WHEREAS, the various parties desire to dedicate to the city of Duluth the constructed water and gas mains; and

WHEREAS, the water and gas department performed the inspection of the construction of said water and gas mains, plans of which are on file in the engineer's office of the water and gas department, and now finds the construction to be wholly acceptable.

NOW, THEREFORE, BE IT RESOLVED, that upon the recommendation of the director of the water and gas department, the privately constructed water and gas mains as listed in Exhibit A are hereby accepted and he be authorized to include such water and gas mains as part of the water and gas system of the city of Duluth.

Resolution 97-0243 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that D.L. Construction, Inc., be and hereby is awarded a contract for renovation of the water and gas Garfield location, conference room, storage room, copy room and offices in accordance with specifications on its low specification bid of \$23,240, terms net 30, FOB job site, \$11,620 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533 and \$11,620 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 97-0257 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Schlumberger Industries be and hereby is awarded a contract for furnishing and delivering approximately 600 gas meters for the water and gas department in accordance with specifications on its low specification bid of \$37,541.25, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 97-0258 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Minnesota Pipe and Equipment be and hereby is awarded a contract for furnishing and delivering waterous hydrants and parts for the water and gas department in accordance with specifications on its low specification bid of \$31,358.87, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 97-0263 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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RESOLVED, that Valley View Associates, Inc., be and hereby is awarded a contract for furnishing and delivering two chlorine gas feed scales for the water and gas department in accordance with specifications on its low specification bid of \$6,171.68, terms net 30, FOB shipping point, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 97-0265 was unanimously adopted.  
Approved March 31, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Fisher Controls, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 900 gas regulators for the gas division in accordance with specifications on its low specification bid of \$14,329.58, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 97-0271 was unanimously adopted.  
Approved March 31, 1997  
GARY L. DOTY, Mayor

- - -

Resolution 97-0245, by Councilor Talarico, authorizing Amendment #2 to Agreement #17299 with Architects IV, for providing certain additional architectural services to the city of Duluth in connection with the Lincoln Park Business District Revitalization Phase II, in an amount not to exceed \$30,000, was introduced for discussion.

Councilor Talarico stated that due to some technicalities, it is necessary to table the resolution at this time. He moved to table the resolution, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction services for the Norton Park 1997 street improvement project in accordance with specifications on its low specification bid of \$950,429.65, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9701, Object 5530.

Resolution 97-0259 was unanimously adopted.  
Approved March 31, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for construction of the 1997 street improvement program for Vernon Street for the engineering division in accordance with specifications on its low specification bid of \$82,405.03, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9608, Object 5530.

Resolution 97-0266 was unanimously adopted.  
Approved March 31, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Utility Systems of America be and hereby is awarded a contract for construction of Lower Hunters Park, Phase 2, 1997 street improvement program for the engineering division in accordance with specifications on its low specification bid of \$819,777.05, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9704, Object 5530.

Resolution 97-0276 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-84 of the Duluth City Code, 1959, as amended, a two hour parking 8:00 A.M. to 5:30 P.M. Monday through Friday zone is hereby established for the south side of old Superior Street for 60 feet in front of the Pickwick Restaurant, 508 East Superior Street.

FURTHER RESOLVED, that in accordance with the provisions of Section 33-94 of the Duluth City Code, 1959, as amended, this zone be a 60 degree angle parking area.

Resolution 97-0256 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

WHEREAS, the city of Duluth desires to establish the Duluth fire department hazardous material response team; and

WHEREAS, the city desires to hire a training specialist to provide the services required to initial specialist training and technician refresher training; and

WHEREAS, FEMR, has submitted a proposal for the training services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with FEMR, to provide the city with such hazardous materials training services.

BE IT FURTHER RESOLVED, that the cost of said hazardous materials training services, estimated at \$8,654, will be payable from the General Fund 100, Dept./Agency 100, Organization 1505, Object 5319.

Resolution 97-0261 was unanimously adopted.

Approved March 31, 1997

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES  
ORDINANCE TABLED**

BY COUNCILOR HALES

97-042 (9327) - AN ORDINANCE REQUIRING CITY COUNCILORS TO FILE STATEMENTS DISCLOSING POSITIONS AS OFFICERS OR BOARD MEMBERS OF NONPROFIT ORGANIZATIONS AND MEMBERSHIP ON BOARDS, COMMISSIONS AND AUTHORITIES, ADDING A NEW SECTION 2-56.1 TO THE CITY CODE.

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



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Responding to Councilor Keenan, Mr. Dinan explained that the first part of the ordinance covers public sector organizations and boards and commissions and the second part covers private sector organizations.

Councilor Wheeler stated that he will support the ordinance even though he believes it insinuates that the councilors are not trustworthy or ethical. He said he believes councilors are trustworthy and honorable. He said it is important to hold public officials to high standards as well as trust one another.

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

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Wheeler and President Hardesty -- 6

Nays: Councilors Prettner Solon and Talarico -- 2

Absent: Councilor Rapaich -- 1

- - -

The following entitled ordinance was read for the first time:

BY COUNCILOR WHEELER

97-004 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1996 INCREASING THE BUDGET USING EXCESS REVENUES AND RELIEF PAYMENTS FROM THE STATE OF MINNESOTA AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR PRETTNER SOLON

97-002 (9328) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A PORTION OF LOT 5, BLOCK 1, ONEOTA INDUSTRIAL PARK, TO NORTH STAR MARINE; AND ACCEPTING AN EASEMENT FOR PUBLIC RIGHT-OF-WAY OVER A PORTION OF LOT 7, BLOCK 1, ONEOTA INDUSTRIAL PARK, FROM NORTH STAR MARINE.

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

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

Nays: None -- 0

Absent: Councilor Rapaich -- 1

- - -

BY COUNCILOR PRETTNER SOLON

97-003 - AN ORDINANCE AUTHORIZING EXECUTION OF DEVELOPMENT AGREEMENT WITH NORTH STAR FORD, L.L.C. AND AUTHORIZING SALE OF CERTAIN LANDS IN THE LINCOLN PARK BUSINESS DISTRICT.

Councilor Prettner Solon moved to table the ordinance, which motion was seconded and carried upon a unanimous vote.

- - -

The meeting was adjourned at 9:50 p.m.

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

- - -

**ORDINANCE NO. 9327**

BY COUNCILOR HALES:

AN ORDINANCE REQUIRING CITY COUNCILORS TO FILE STATEMENTS DISCLOSING POSITIONS AS OFFICERS OR BOARD MEMBERS OF NONPROFIT ORGANIZATIONS AND MEMBERSHIP ON BOARDS, COMMISSIONS AND AUTHORITIES, ADDING A NEW SECTION 2-56.1 TO THE CITY CODE.

The city of Duluth does ordain:

Section 1. That Section 2-56.1 is hereby added to the Duluth City Code, 1959, to read as follows:

Sec. 2-56.1. Statements of affiliation with nonprofit agencies, boards, commissions and authorities.

City councilors shall file with the city clerk, and update as necessary, a statement disclosing their memberships on public boards, commissions and authorities and their current affiliations with nonprofit organizations, other than religious or political organizations, where they serve as an officer or member of the board of directors.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: May 11, 1997)

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

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Wheeler and President Hardesty -- 6

Nays: Councilors Prettner Solon and Talarico -- 2

Absent: Councilor Rapaich -- 1

Passed March 31, 1997  
Approved March 31, 1997  
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 9328**

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A PORTION OF LOT 5, BLOCK 1, ONEOTA INDUSTRIAL PARK, TO NORTH STAR MARINE; AND ACCEPTING AN EASEMENT FOR PUBLIC RIGHT-OF-WAY OVER A PORTION OF LOT 7, BLOCK 1, ONEOTA INDUSTRIAL PARK, FROM NORTH STAR MARINE.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby conveys by quit claim deed its right, title and interest in and to that certain real estate located in St. Louis County, Minnesota, hereinafter described, to North Star Marine, upon the terms and conditions contained in Public Document No. 97-0331-36 on file in the office of the city clerk, for good and valuable consideration, including the exchange of property described in Section 2 herein:

A triangular-shaped parcel in Lot 5, Block 1, of the recorded plat of Oneota Industrial Park, located southeasterly of the 30' utility easement shown on the recorded plat, the triangular-shaped parcel is described as:

Beginning at a point on the north right-of-way line of Superior Street, which point is the southwest corner of Lot 7, Block 1, Oneota Industrial Park, and proceeding northerly along the boundary line between Lot 7 and Lot 5 to the point where the

boundary line intersects with the southeast boundary of the platted 30' utility easement; then southwesterly along the southeast boundary of the platted 30' utility easement to the point of intersection with the north right-of-way line of Superior Street; then easterly along the north right-of-way line of Superior Street to the point of beginning.

Section 2. That the city of Duluth, in exchange for the conveyance described in Section 1 herein accepts from North Star Marine an easement for public right-of-way purposes over that certain real estate located in St. Louis County, Minnesota, hereinafter described, upon the terms and conditions contained Public Document No. 97-0331-36 on file in the office of the city clerk, for good and valuable consideration, including the exchange of property described in Section 1 herein:

That part of Lot 7, Block 1, of the recorded plat of Oneota Industrial Park which lies within the platted 30' utility easement, being the northwesterly 20 feet of Lot 7, Block 1, Oneota Industrial Park.

Section 3. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: May 11, 1997)

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

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

Nays: None -- 0

Absent: Councilor Rapaich -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed March 31, 1997  
Approved March 31, 1997  
GARY L. DOTY, Mayor

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, April 14, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: Councilor Prettner Solon -- 1

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The minutes of council meetings held on September 9, 23 and 30, 1996, were unanimously approved.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0414-01 Michael E. Sternberg, et al. (eight signatures) petitioning for reclassification from R-2 to C-2 portions of Blocks 14 and 23, Hazelwood Addition to Oneota. -- Assessor

97-0414-02 Housing and Redevelopment Authority of Duluth executive director submitting audit report for year ended September 30, 1996. -- Received

97-0414-24 The following submitting communications pertaining to the resolution relating to economic incentives from the city of Duluth (97-0143R): (a) Al Billington; (b) Duluth Coalition for a Living Wage; (c) Dale S. Lewis; (d) Alden E. Lind; (e) Anne Marxhausen; (f) Jenno F. Paulucci; (g) Debra L. Taylor; (h) Jeffrey D. Tyllia. -- Received

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**REPORTS OF OFFICERS**

97-0414-25 Administrative Assistant submitting communication pertaining to the request that the administration look into the extension of the curfew to 16 and 17 year olds (97-0159R). -- Received

97-0414-03 Assessor submitting:

(a) Letters of sufficiency regarding petitions to construct:

(1) Permanent street on Denney Drive from Skyline Parkway to approximately 792 feet northerly;

(2) Sanitary sewer on Arrowhead Road from Rice Lake Road to approximately 4,355 feet westerly. -- Received

(b) Notice of affidavit of mailing of notice of public hearing on ordering of proposed local improvement and levying of assessments against real estate specially benefitted by such improvement with regard to the 1998 street improvement program for the areas of: Lower Lakeside; Norton Park West; Endion Upper East; Kenwood Ave - Upper; Upper Lincoln; Upper Woodland East; and Cody South. -- Clerk

97-0414-04 Building official submitting appeal of Dean Benson to reverse board of zoning appeals' denial of a variance to relax the front yard setback from 30 feet to 26 feet for the construction of a 23 feet by 14 feet addition onto the front of an existing dwelling on property located at 1515 North Basswood Avenue. -- Committee 2 (planning)

97-0414-10 Purchasing agent submitting emergency purchase order awarded to Morton Salt Division of Morton-Norwich Product, Inc., for road salt for the remaining 1996/1997 winter season. -- Received

97-0414-05 Treasurer submitting acceptance of gambling funds from Duluth Elks Lodge #133. -- Received

97-0414-13 Water and gas department submitting 1996 annual report (includes financial report of sewer division). -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

97-0414-09 Board of directors of trusts for Miller-Dwan Hospital and Medical Center minutes of February 20, 1997, meeting. -- Received

97-0414-06 Citywide citizens advisory committee minutes of March 25, 1997, meeting. -- Received

97-0414-07 Civil service board minutes of: (a) January 7, 1997; and (b) February 4, 1997, meetings. -- Received

97-0414-08 Housing and redevelopment authority of Duluth minutes February 25, 1997, meeting. -- Received

Councilor Hales noted that the Housing and redevelopment authority minutes included action taken with regard to a bid awarded in the amount of \$300,000 for lead abatement in three houses owned by the HRA. She stated the amount is excessive to make three houses liveable and requested a policy setting meeting with the HRA board.

97-0414-12 Lawful gambling commission minutes of: (a) March 11; (b) March 21, 1997, meetings. -- Received

97-0414-11 Special assessment board: (a) Minutes of March 25, 1997, meeting; (b) Reports for the proposed improvements of: (1) 49th Avenue East from Oneida to Glenwood Streets; (2) Second Street Alley from 30th Avenue East to Hawthorne Road. -- Received

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**RESOLUTIONS TABLED**

Councilor Talarico moved to remove from the table Resolution 97-0143 (introduced by Councilor Prettnner Solon), relating to economic incentives from the city of Duluth, which motion was seconded and unanimously carried.

Councilor Talarico stated that because of action to be taken with regard to another resolution at this meeting, it is Councilor Prettnner Solon's wish to refer the resolution back to the administration.

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

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**MOTIONS AND RESOLUTIONS**

BY COUNCILOR WHEELER:

RESOLVED, that the city council hereby expresses its intent to authorize the city to be a guarantor sponsor of the 1998 John Beargrease Sled Dog Marathon at a cost to the city of \$10,000.

Resolution 97-0301 was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Uniform Connection be and hereby is awarded a contract for furnishing and delivering uniforms for the water and gas department, zoo division and library department in accordance with specifications on its low specification bid of \$17,320, terms net 30, FOB destination, payable out of various funds, dept./agency various, organization various, object various.

Resolution 97-0270 was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Century Fence Company be and hereby is awarded a contract for installation of new fencing at the Duluth police department firing range in accordance with specifications on its low specification bid of \$24,947, terms net 30, FOB job site, \$9,500 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C427 and \$15,447 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1997, Object C702.

Resolution 97-0319 was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0330, by Councilor Rapaich, approving the issuance of lawful gambling premise permits, was introduced for discussion.

Responding to Councilor Wheeler, Deputy City Clerk Oswald stated that the curling club has not been involved with charitable gambling in the past.

Councilor Wheeler stated, and Councilor Hogg agreed, that he will vote against this portion of the resolution. He noted that even though the Buena Vista Lounge is an existing site for pull tabs, the curling club is a new organization to charitable gambling, which meets his definition of expansion of charitable gambling, which he opposes.

Councilor Wheeler moved to split the resolution to vote on the premise permits for the Epilepsy League at the Pioneer Bar and the Duluth Curling Club at the Buena Vista Lounge separately, which motion was seconded and unanimously carried.

Resolution 97-0330(a) was adopted as follows:

BY COUNCILOR RAPAICH:

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

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

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

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

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
Epilepsy League	Pioneer Bar	March 20, 1997

Resolution 97-0330(a) was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0330(b) was adopted as follows:

BY COUNCILOR RAPAICH:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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board for a premise permit; and

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

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

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

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
Duluth Curling Club	Buena Vista Lounge	April 1, 1997

Resolution 97-0330(b) was adopted upon the following vote:

Yeas: Councilors Hales, Keenan, Rapaich, Talarico and President Hardesty -- 5

Nays: Councilors Bohlmann, Hogg and Wheeler -- 3

Absent: Councilor Prettnner Solon -- 1

Approved April 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

COMMISSION ON DISABILITIES

Tom Constantini for a term expiring November 1, 1997, replacing Dorothy Turnbloom who resigned.

Resolution 97-0290 was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

SISTER CITY COMMISSION

Kristine Gilley for a term expiring March 30, 2000, replacing Gale Kerns.

Richard Gastler for a term expiring March 30, 2000, replacing Karl Olson.

Resolution 97-0291 was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Grant Odegard (West Duluth) for a term expiring March 1, 1999, replacing Jeffrey Jackson, who resigned.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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NEIGHBORHOOD ADVISORY COUNCIL

Grant Odegard (West Duluth) for a term expiring March 1, 1999, replacing Jeffrey Jackson, who resigned.

Resolution 97-0293 was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that Keith J. Stauber is hereby reappointed to the civil service board for a term expiring May 1, 2003.

Resolution 97-0303 was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the city council of the city of Duluth hereby accepts the dedication by the Duluth economic development authority of an easement for street right-of-way purposes over the following real property in St. Louis County, Minnesota:

The southerly six feet of Fremont Street adjacent to Blocks 13 and 14, Hunter's Grassy Point Addition Second Division measured from the easterly railroad right-of-way of the Burlington Northern Santa Fe Railway Company to a line 140 feet distant westerly and parallel with the west line of 67th Avenue West, except that portion of said Fremont Street described as follows:

The southerly six feet of Fremont Street adjacent to Blocks 13 and 14, Hunter's Grassy Point Addition Second Division measured from the easterly railroad right-of-way of the Burlington Northern Santa Fe Railway Company to a line 140 feet distant westerly and parallel with the west line of 67th Avenue West, except that portion of said Fremont Street described as follows:

Beginning at the northwest corner of Lot 32 of Block 14 of said Hunter's Grassy Point Addition Second Division, also being the intersection of the south line of the right-of-way of said Fremont Street and the east line of the said railroad right-of-way; thence north 44 degrees 23 minutes 50 seconds east, assumed bearing, along said east line of said railroad right-of-way, a distance of 44.73 feet to the centerline of said Fremont Street; thence south 89 degrees 24 minutes 50 seconds east 116.57 feet along said centerline; thence south 0 degrees 35 minutes 10 seconds west 27.00 feet; thence southerly along a tangential curve concave to the east 6.01 feet, radius 60 feet, to the said south right-of-way line of Fremont Street; thence North 89 degrees 24 minutes 50 seconds West 147.93 feet along said south right-of-way line of Fremont Street to the point of beginning.

Resolution 97-0247 was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0279, by Councilor Keenan, authorizing extension of an agreement relating to TEAM Duluth and authorizing financial support for TEAM Duluth for the period May 1, 1997, through April 30, 1998, in the amount of \$44,000, was introduced for discussion.

Councilor Bohlmann questioned why the city and Duluth economic development authority (DEDA) are contributing \$44,000 each and that each of the other four private entities are



contributing only \$16,500. She said it is not fair to expect taxpayers to foot the majority of the expenses.

Councilor Wheeler stated that besides the funds that are being requested in this contract, it is exciting that the private businesses have donated over \$100,000 this year, which is more than the taxpayers are being asked for. He added that besides the donations, there is a real partnership between private industry, business and government to try to strengthen the existing business that is in Duluth as well as bring in new companies that will bring in good jobs. He stated that the money raised is well spent.

Responding to Councilor Bohlmann, Mike McNamara, executive director of TEAM Duluth, stated that TEAM Duluth was originally set up with the major economic development associations in the city which include the city of Duluth, the Duluth airport authority, the Duluth Area Chamber of Commerce, DEDA, Minnesota Power and the Seaway Port authority of Duluth and it was agreed that the city and DEDA would pay the majority of the funds. He stated that all of the entities have also been asked to increase their contributions by ten percent. He noted that all of the marketing and travel budget was not spent last year and was carried over so instead of spending down all of this year's funds and the carry over this year, it was decided to request the ten percent increase from all of the agencies now instead of asking for a very large increase next year. He noted that totally there will be over \$250,000 being spent in a public/private partnership in the TEAM Duluth effort. He added that over 60 business have invested and made a decision that it is important to give TEAM Duluth money to help retain existing businesses and to go out and recruit more. Mr. McNamara explained that the budget reflects the contributions of the development groups but it does not reflect the contributions of private businesses. He stated that private businesses have pledged and contributed funds in past years and have committed to at least \$100,000 this year and it is hoped that the program continues in the same successful manner over the next three years and into the future.

Councilor Hogg noted that the budget from last year indicates that the contribution from the private sector was a total of \$25,000 which amounts to a 400 percent increase this year. He stated that he believes that the request for a ten percent increase from the economic development association members is quite modest.

Responding to Councilor Bohlmann, Councilor Talarico stated that it would be illegal for DEDA to take funds from the tax increment to be considered as private contributions. He explained that the \$44,000 DEDA contribution comes directly from its budget and that the private contributions are channeled directly through the chamber of commerce and DEDA does not handle them at all.

Resolution 97-0279 was adopted as follows:

BY COUNCILOR KEENAN:

WHEREAS, the city of Duluth has previously entered into an agreement, dated February 22, 1994, bearing City Contract No. 17650, which agreement provided for the formation of an association known as TEAM Duluth; and

WHEREAS, the city of Duluth finds that it would be in the best interests of the city of Duluth to continue its participation in TEAM Duluth in order to coordinate economic development activities with all of the other participants in TEAM Duluth; and

WHEREAS, the city of Duluth provides financial support for the operation of TEAM Duluth, pursuant to the terms of the agreement between the parties, which financial support is proposed to be in the amount of \$44,000 for the period May 1, 1997, through April 30, 1998.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into the agreement continuing the operation of TEAM Duluth for the period from April 1, 1997, until May 1, 1997 (Public Document No. 97-0414-14). Furthermore, the city of Duluth is authorized to provide funding for the operation of TEAM Duluth on terms established in the agreement in the amount of \$44,000, this amount payable from Fund 255.

Resolution 97-0279 was unanimously adopted.  
Approved April 14, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, the city of Duluth has entered into an agreement dated February 22, 1994, as a participant in TEAM Duluth; and

WHEREAS, the agreement provides in amended Section 6E that:  
E. Repayments:

With 30 days of the first anniversary of the signing of this agreement and annually thereafter during the term of this agreement, chamber agrees to repay each participant a sum equal to the difference, if any, between each such participant's annual contribution to the program, as described in Subparagraph A above, and such participant's actual proportionate share of the expenses of administering the program which shall be set forth in the annual report provided for in Subparagraph C of Paragraph 8 below or, at its sole option, any participant may direct the chamber to retain said amount. Each participant, at its sole option, shall direct the chamber whether the amounts retained as described in this Section shall or shall not reduce the participant's annual contribution to the program for the subsequent program; and

WHEREAS, TEAM Duluth now requests that the amount of approximately \$14,317 of which the city of Duluth's proportionate share would be \$4,767, be carried over from budget year 1996 to budget year 1997.

RESOLVED, that the proper city officials are hereby authorized to direct the Duluth Area Chamber of Commerce, as administrator of the TEAM Duluth program, to retain \$4,767 of the unspent contribution of the city of Duluth for budget year 1995-1996, and to carry over that amount for budget year 1996-1997.

Resolution 97-0305 was unanimously adopted.  
Approved April 14, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, Duluth/Superior Cellular, Inc., has submitted to the city council a request for a special use permit for a communication tower and equipment building on property described as Lots 65 and 67, Block 135, Duluth Proper Third Division, and located at the southwest corner of Fourth Avenue West and Ninth Street; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Duluth/Superior Cellular, Inc., to allow for the operation of a communication tower and equipment building located on the above described property at the southwest corner of Fourth Avenue West and Ninth Street, on the condition that tower and equipment building be constructed and maintained in accordance with plans and drawings identified as Public Document No. 97-0414-15.

Resolution 97-0282 was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, on October 28, 1996, the city established the YWCA Kids' Corner East Hillside/Endion project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0414-16, with the Young Women's Christian Association (YWCA), Inc., Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$66,000, payable out of the 1997 Federal Program Fund 262 - community development - YWCA East Hillside/Endion Kids' Corner Project - Account No. 6023.

Resolution 97-0284 was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, on October 28, 1996, the city established the YWCA Kids' Corner Central Hillside project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0414-17, with the Young Women's Christian Association (YWCA), Inc., Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$45,000, payable out of the 1997 Federal Program Fund 262 - community development - YWCA Central Hillside Kids' Corner Project - Account No. 6024.

Resolution 97-0285 was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, pursuant to Resolution No. 97-0193 adopted on March 17, 1997, the city of Duluth (the city), entered into an agreement with the Boys Club of Duluth, Minnesota, in which the agency agreed to operate a youth and family center services project, payable from the 1997 Federal Program Fund 262 - community development - Boys and Girls Club Youth and Family Center Account 6020; and

WHEREAS, parties desire to further amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 1, a copy of which is on file in the office of the city clerk as Public Document No. 97-0414-18, to the agreement with the Boys Club which adds

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\$8,000, payable from the Boys & Girls Club Youth and Family Center Project Account No. 6020 to the compensation total of the contract.

Resolution 97-0288 was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, pursuant to Resolution No. 97-0184 adopted on March 17, 1997, the city of Duluth (the city), entered into an agreement with the Duluth Community Health Center of Duluth, Minnesota, in which the center agreed to operate a youth and senior citizen health assessment project, payable from the 1997 Federal Program Fund 262 - community development - Duluth Community Health Center Account 6022; and

WHEREAS, parties desire to further amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 1, a copy of which is on file in the office of the city clerk as Public Document No. 97-0414-19, to the agreement with Duluth Community Health Center which adds \$5,000, payable from the Health Center Project Account No. 6022 to the compensation total of the contract.

Resolution 97-0289 was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, American Legion Lakeview Post #342 is the owner of property described as: Lot One (1), Block Fifty-five (55), Lester Park Fourth Division, which it is offering for sale;

WHEREAS, city staff has reviewed the acquisition of this property and has determined that the purpose of the property would be desirable for public purposes, including, but not limited to: providing a buffer between the park area known as Lester Park and the residential neighborhood, eliminating the visual blight of the deteriorated building which is on the property and the attractive nuisance which it has become, and providing additional parking for the park; and

WHEREAS, city staff has determined that the cost to purchase this property would be \$12,400 plus the cost of demolishing the building on the property.

NOW, THEREFORE, BE IT RESOLVED, by the Duluth city council, that the proper city officials are authorized to purchase property identified as Lot One (1), Block Fifty-five (55), Lester Park Fourth Division from American Legion Lakeview Post #342 on terms and conditions as specified in City Contract No. \_\_\_\_\_, the purchase price of \$12,400 will be funded from Fund 100, Dept. 700, Org. 1418, Obj. 1604.

Resolution 97-0304 was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

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Resolution 97-0306, by Councilor Keenan, authorizing the acquisition of certain property from DEDA in Ironton Second Division, to be utilized for public open space purposes in conjunction with the Riverside School development, was introduced for discussion.

Responding to Councilors Bohlmann and Hogg, Councilor Talarico stated that because the property is being deeded to the city, the city will carry any liability insurance through the

self insurance fund. He stated that there is no intent to improve the property and that it was originally set aside for watershed purposes. He said that people do walk through it but it is not considered to be a park. He explained that most of the property was owned by the school district as part of Riverside School, which was never part of the boundary area for Spirit Mountain, and that the land to the south and north of it was tax forfeited and belonged to the state. He said that DEDA is acquiring it because the school district expressed an interest in getting rid of it.

Resolution 97-0306 was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that the property city officials are hereby authorized to acquire from the Duluth economic development authority ("DEDA"), the property described below in St. Louis County, Minnesota, for \$1.00 and other good and valuable consideration for public open space:

That part of Blocks 41, 42 and 48, Ironton Second Division lying east of the following described line:

Commencing at the intersection of the easterly line of the DWP right-of-way and the northerly right-of-way of Gogebic Street; thence on an assumed bearing of North 30 degrees 54 minutes 20 seconds east along the east line of the DWP right-of-way 910.04 feet to the beginning of said line; thence South 78 degrees 05 minutes 20 seconds east, 110.93 feet; thence North 75 degrees 03 minutes 13 seconds east, 210.84 feet; thence South 86 degrees 05 minutes 41 seconds east, 237.82 feet; thence South 60 degrees 37 minutes 11 seconds east, 279.27 feet to the south line of said Block 48 and there terminating.

Except that part of Block 48 lying south of the north line of Highway 23.

Resolution 97-0306 was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, on August 28, 1995, the city council of the city of Duluth approved the vacation of a portion of Morse Street, retaining for utility purposes the south one-half of the east 50 feet, and as more particularly described on Public Document No. 95-0828-36; and

WHEREAS, the portion of Morse Street to be vacated was legally described in Resolution 95-0766 as:

Morse Street, adjacent to Lots 280 and 282, Lake Avenue, Upper Duluth; and

WHEREAS, it has now been determined that the legal description which was included in this resolution was in error and needs to be corrected; and

WHEREAS, the proper legal description of the portion of Morse Street to be vacated should be legally described as:

Morse Street, adjacent to Lots 280 and 282, Lake Avenue, Upper Duluth; and that part of Morse Street adjacent to Lots 281 and 279, Minnesota Avenue, Upper Duluth, and lying east of the west line of the railroad right-of-way of the Northern Pacific Railroad.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Morse Street, using the following legal description:

Morse Street, adjacent to Lots 280 and 282, Lake Avenue, Upper Duluth; and that part of Morse Street adjacent to Lots 281 and 279, Minnesota Avenue, Upper Duluth, and lying east of the west line of the railroad right-of-way of the Northern Pacific Railroad, and retaining

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for utility purposes the south one-half of the east 50 feet, and as more particularly described on Public Document No. 95-0828-36.

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

Resolution 97-0331 was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to modify City Contract No. 17822 with the housing redevelopment authority to offer case management services to participants in its family self-sufficiency program, by reducing the contract amount by \$16,347 to a contract total not to exceed \$25,000, by modifying the budget and replacing it with modified budget bearing "budget modification date March 14, 1997, No. 1," and to make some language changes to said contract.

FURTHER RESOLVED, that funds received under this agreement shall be deposited in Fund 269, Budget Item 6293.

Resolution 97-0302 was unanimously adopted.

Approved April 9, 1997

GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into a memorandum of understanding with the Duluth Workforce Council, Inc., for the period July 1, 1997, to June 30, 1999. This memorandum of understanding outlines the responsibilities of both parties in regard to the administration, planning, evaluation and provision of employment and training programs in the city. This is a nonfinancial agreement. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 97-0414-20.

Resolution 97-0334 was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into a memorandum of understanding with the Duluth job service office to continue a cooperative agreement addressing employment and training program coordination in accordance with the requirements set forth in the job training partnership act (Public Law 97-300) and the guidelines of the Minnesota workforce center system. This agreement will become effective July 1, 1997, and will remain in effect until it is terminated by either party. This is a nonfinancial agreement. A copy of this memorandum shall be on file in the city clerk's office as Public Document No. 97-0414-21.

Resolution 97-0335 was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

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Resolution 97-0338, by Councilor Hardesty, establishing a task force to review and make recommendations with respect to the living wage issue, was introduced for discussion.

Councilor Keenan stated he believes that this is an issue that the city council should vote on and said he will not support creation of a task force to do the council's job. He added that he believes the council needs to do a better job of setting policy with regard to the establishment of task forces. He said he is convinced that the chamber of commerce and living wage supporters will not come to common ground on this issue and that the city council will end up deciding the issue. He said he feels creating a task force is premature and noted that the city council nor DEDA has not given either group direction on what it believes is important with regard to the issue.

Councilor Hogg agreed that there is merit to the point that the council should not use a task force idea to avoid confronting issues and that the council needs to spend more time on policy; however, he noted that the council was specific about bringing the parties together to create an opportunity to find what areas of agreement might be as the resolution states. He said he believes that the council and the community will benefit if the parties have the opportunity to have a meeting to talk about the issues to find out what areas of agreement they can come to knowing that they will have areas of disagreement. He stated he will support the resolution.

Councilor Hales noted that there was a council committee meeting scheduled to discuss policy with regard to this issue and before it could take place it was decided to create a task force to make some compromises and recommendations. She said she is concerned that the council isn't doing it's job and that creating a task force may be premature. She expressed concern that the proposed make up of the task force includes an even number of people which could create a stalemate.

President Hardesty stated that the intent of the resolution is not to get a recommendation or seek compromises. She noted that the intent of the resolution is to find out what plains of consensus can be built in the community between some people who have very strong support or opposition to this issue. She said she would hate to go forward with the issue before the task force discussion because she believes the input is valuable and the process will not prevent the council from discussing the issue. President Hardesty said the process proposed will not preclude the council from going through a policy development process at a later date.

Councilor Hales stated that consensus negates leadership and requested that the council determine some direction before a task force is asked to come to consensus.

President Hardesty disagreed that consensus negates leadership and stated she doesn't expect 100 percent consensus.

Councilor Talarico stated that the concerns he has heard with regard to the issue tonight are valid, but he believes the council should move forward. He made a motion to amend the resolution as follows:

(a) In the first paragraph after the words "living wage related to the" to read as follows: "accountability of government assistance to business and the need to pay a living wage to its employees;"

(b) In paragraph (c) replace the word "administrators" with "staff," which motion was seconded.

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

Eric Peterson noted that the language clarifies the resolution. He noted there were a number of issues in the proposed ordinance that were discussed that concern contracts and

other issues and he asked Councilor Talarico if his language includes the other issues that were discussed at the last meeting or if it is limited solely to what is normally considered to be city assistance.

Councilor Talarico said he is merely clarifying the charge and that it will be up to the task force to decide what degree they put latitude into the issue.

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

Councilor Talarico's amendment was carried upon a unanimous vote.

Councilor Bohlmann moved to amend the resolution by adding the following paragraph at the end of the resolution:

"RESOLVED FURTHER, that all meetings of the task force shall be open to the public, shall be held in the Duluth City Council Chambers in the evening at 7:30 p.m. and shall be televised on public access television and shall be taped," which motion was seconded and discussed.

President Hardesty stated that while she supports having the meetings televised on Duluth-Superior Public Access Cable Television (PACT), open to the public and in the Council Chambers at 7:30 p.m., she is uncertain that all of it is possible and may be difficult for the task force to schedule itself. She said she will support it if the "7:30 p.m." is replaced with "after 4:00 p.m." to make it more workable.

Councilor Bohlmann said that the reason she believes the meetings should be held at 7:30 p.m. is because it is not possible for most interested citizens to attend or watch an afternoon meeting. She said this is an important issue and she believes that the task force should commit to a definite time so that the public can attend.

Councilor Hogg opposed the amendment. He stated that while he believes the council should make it clear that the task force meetings are public meetings and that there needs to be appropriate notice, the task force should set its own schedule.

Councilor Rapaich stated opposition to the amendment.

Councilor Wheeler stated that while he believes that the intent that open meetings is good and important, it is unconscionable to straitjacket individuals who have their own commitments and demands in life and who are being asked to serve on a task force with a specific time. He further stated that he believes there is nothing wrong with asking PACT to cover the meetings, but the council should remember that the organization is also made up of volunteers and there is no guarantee the meetings will be televised and taped. He said that while he supports the intent, he will not support the amendment.

Councilor Hales stated it would be nice to have the meetings televised and taped, but she feels the amendment is too restrictive and will not support it.

Councilor Bohlmann noted that her intent in making the amendment so restrictive is so that the task force will not purposely circumvent the public.

President Hardesty proposed a friendly amendment to change the wording of the paragraph to read:

"RESOLVED FURTHER, that all meetings of the task force shall be open to the public, advertised and recorded and televised when possible," which proposal was not accepted by Councilor Bohlmann.

Councilor Bohlmann stated she will not support President Hardesty's amendment because it does not mandate that the meetings be held in the Council Chambers.

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



Councilor Bohlmann's amendment failed upon the following vote:

Yeas: Councilor Bohlmann -- 1

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

Absent: Councilor Prettner Solon -- 1

Councilor Hales moved to amend the resolution as follows:

- (a) In paragraph (a), replace the word "four" with "three";
- (b) In paragraph (b) replace the word "four" with "three";
- (c) Add a new paragraph as follows:

“(e) One member who shall be a DEDA commissioner,” which motion was seconded and discussed.

Councilor Hales stated that her objective is to reduce the number of task force members.

Councilor Wheeler stated he does not believe it is important whether there is an odd or even number of people on the task force because its purpose is to find common ground. He opposed the amendment, stating he believes it is a mistake to limit the diversity of the business community and the coalition, which are large groups, to one less representative.

Councilor Bohlmann said she will oppose the amendment because she believes the city should have one representative.

Responding to Councilor Hogg, Councilor Hales stated she would agree to one council member who is on DEDA to represent the authority.

Councilor Talarico supported making the task force as small as possible and noted that the number of members appointed to the group does not matter as long as the group's perspective on the issue is made known.

Councilor Hogg agreed with councilors Hales and Talarico and proposed a friendly amendment as follows:

(a) In paragraph (d) add the language, "at least one of whom shall be a DEDA commissioner";

(b) Eliminate paragraph (e), which proposal was accepted by Councilor Hales.

President Hardesty said she is concerned with limiting diversity.

Councilor Hales stated she believes the council needs to better define the charge of the task force but she feels more comfortable and will support a smaller number of members.

Councilor Hales' amendment carried upon a unanimous vote.

Councilor Keenan stated he will oppose the amended resolution because he does not believe the council has done it's job in setting policy for this task force.

Councilor Bohlmann said she will support the resolution; however, she agrees with Councilor Keenan. She stated she believes the council has adequate communication from the public with regard to the issue to vote on it at this time.

Resolution 97-0338, as amended, was adopted as follows:

BY PRESIDENT HARDESTY:

WHEREAS, the city council has received proposals from the mayor and from a group of citizens organized as a Coalition for a Living Wage related to the accountability of government assistance to business and the need to pay a living wage to its employees; and

WHEREAS, the Duluth Chamber of Commerce has expressed a strong interest in such issue; and

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WHEREAS, the city council desires to have a task force review such issue with the objective of finding common ground among the factions with differing viewpoints on this issue;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby establishes a task force to review and make recommendations with respect to the living wage issue, which task force shall have 12 members and shall be appointed as follows:

- (a) Three members shall be appointed by the Coalition for a Living Wage;
- (b) Three members shall be appointed by the Duluth Chamber of Commerce;
- (c) Two members shall be city staff appointed by the mayor; and
- (d) Two members shall be city councilors appointed by the council president, at least one of whom shall be a DEDA commissioner.

RESOLVED FURTHER, that such task force shall submit its report and recommendations on items on which there was consensus among task force members to the city council no later than May 27, 1997.

Resolution 97-0338, as amended, was adopted upon the following vote:

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

Nays: Councilor Keenan -- 1

Absent: Councilor Prettner Solon -- 1

Approved April 14, 1997

GARY L. DOTY, Mayor

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Resolution 97-0264, by Councilor Talarico, awarding contract to Flanagan Sales, Inc., for nine decorative trash receptacles in accordance with specifications on its low specification bid of \$5,995.94, was introduced or discussion.

Councilor Bohlmann stated she will oppose this resolution because the cost of \$666 for each trash receptacle is too high.

Councilor Hogg agreed with Councilor Bohlmann and said he will oppose the resolution as well.

Responding to Councilor Hales, Richard Larson, director of public works, stated that the bid was not awarded to the low bidder because it was felt that the containers would not hold up over a period of time. He stated that the receptacles being voted on are made of heavy gauge steel which are painted and that the city has literally hundreds of them. He noted that the reason they are so pricey is because of the aesthetics. He added that the receptacles purchased for the Lincoln Park area, which are the same, were each \$200 more.

Councilor Wheeler said that after amortizing the receptacles over a ten year period, the cost is \$66 per year, which he feels is reasonable.

Responding to Councilor Hogg, Councilor Keenan stated that the same receptacles are in the Canal Park area and are very solid and should last 15 to 20 years. He said he did not believe that by sending the resolution back to the administration again would result in cheaper costs.

President Hardesty suggested requesting students who are metal workers at Lake Superior College to design a sturdy trash receptacle at a lower cost.

Councilor Hogg noted that the receptacles do fit aesthetically and likes the idea of having uniform trash receptacles throughout the city, but not at this cost. He expressed his displeasure at spending \$200 more each for the Lincoln Park area. Councilor Hogg moved to return the resolution to the administration, which motion failed upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Yeas: Councilors Bohlmann, Hogg, Rapaich and Talarico -- 4

Nays: Councilors Hales, Keenan, Wheeler and President Hardesty -- 4

Absent: Councilor Prettner Solon -- 1

Resolution 97-0264 was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that Flanagan Sales, Inc., be and hereby is awarded a contract for furnishing and delivering nine decorative trash receptacles for the public works department in accordance with specifications on its low specification bid of \$5,995.94, terms net 30, FOB destination, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2145, Object 5530.

Resolution 97-0264 was adopted upon the following vote:

Yeas: Councilors Hales, Keenan, Rapaich, Talarico and Wheeler -- 5

Nays: Councilors Bohlmann, Hogg and President Hardesty -- 3

Absent: Councilor Prettner Solon -- 1

Approved April 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, by Resolution of Intent No. 96-0777 the council did request the administration to prepare plans and specifications for the permanent improvement including excavation, gravel base and a bituminous surface on Second Alley from 30th Avenue East to Hawthorne Road (City Job No. 8971RS96); and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; the special assessment board has submitted its report to this council, pursuant to Section 45-79, Duluth City Code of 1959; and the said board, at the direction of the mayor, has furnished this council with information as required by Section 45-80 of the Duluth City Code of 1959.

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$39,000 payable from the Special Assessment Fund 810, Agency 038, Organization 5300, Object 5530; and reimbursed as follows: \$8,500 P.I. interest in share and \$30,500 assessable and that \$30,500 of the cost of said improvement be defrayed by special assessment against the land and premises specially benefited; which land and premises are described in the report of the special assessment board; and which report is on file in the office of the city clerk as Public Document No. 97-0414-11(b)(2); and which description is hereby incorporated herein by reference to said Public Document No. 97-0414-11(b)(2); that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 97-0287 was unanimously adopted.

Approved April 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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RESOLVED, that K.G.M. Contractors, Inc., be and hereby is awarded a contract for construction of Skyline Parkway turnaround for the engineering division in accordance with specifications on its low specification bid of \$113,465.70, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9506, Object 5530.

Resolution 97-0294 was unanimously adopted.  
Approved April 14, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that K.G.M. Contractors, Inc., be and hereby is awarded a contract for construction of the upper Woodland street improvement program for 1997 for the engineering division in accordance with specifications on its low specification bid of \$1,284,202.51, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9703, Object 5530.

Resolution 97-0300 was unanimously adopted.  
Approved April 14, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with RREM, Inc., to develop a remedial design/response action plan for Duluth Dump No. 1, which agreement is on file in the office of the city clerk as Public Document No. 97-0414-22, at a cost to the city of not to exceed \$29,140, which shall be payable from the self insurance fund.

Resolution 97-0307 was unanimously adopted.  
Approved April 14, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for construction of Lower Lester Park 1997 street improvements for the engineering division in accordance with specifications on its low specification bid of \$704,583.34, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9705, Object 5530.

Resolution 97-0308 was unanimously adopted.  
Approved April 14, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and the Western Lake Superior Sanitary District for the replacement of the Proctor Interceptor sanitary sewer in Coleman Street between 75th Avenue West and 80th Avenue West, for an estimated cost of \$11,000; said agreement filed as Public Document No. 97-0414-23.

Resolution 97-0329 was unanimously adopted.  
Approved April 14, 1997

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinance was read for the first time:

BY COUNCILOR KEENAN

97-005 - AN ORDINANCE PERTAINING TO MUNICIPAL GOLF COURSES; AMENDING ALCOHOLIC BEVERAGE REGULATIONS AND ESTABLISHING MINIMUM ATTIRE REGULATIONS; AMENDING SECTIONS 35-12 AND 35-25, DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR WHEELER

97-004 (9329) - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1996 INCREASING THE BUDGET USING EXCESS REVENUES AND RELIEF PAYMENTS FROM THE STATE OF MINNESOTA AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

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

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

Nays: None -- 0

Absent: Councilor Prettner Solon -- 1

- - -

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

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

- - -

**ORDINANCE NO. 9329**

BY COUNCILOR WHEELER:

AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1996 INCREASING THE BUDGET USING EXCESS REVENUES AND RELIEF PAYMENTS FROM THE STATE OF MINNESOTA AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

The city of Duluth does ordain:

Section 1. That Ordinance 9283 passed and approved December 11, 1995, is hereby amended by appropriating an additional \$398,000 from the general fund's excess revenues in investment earnings in the amount of \$191,000; and from the state of Minnesota's relief payment in the amount of \$207,000.

Department 500 - public works

Division 1920 - maintenance .....\$398,000.

Section 2. That this ordinance shall take effect immediately upon its passage. (Effective date: April 14, 1997)

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Nays: None -- 0

Absent: Councilor Prettner Solon -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed April 14, 1997

Approved April 14, 1997

GARY L. DOTY, Mayor

- - -

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, April 28, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: Councilor Prettner Solon -- 1

- - -

**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0428-01 The Advocate Community, Inc., et al. (seven signatures), submitting petition to vacate Greysolon Road between 21st and 22nd Avenues East and 22nd Avenue East from Jefferson Street to Greysolon Road. -- Assessor

97-0428-02 Mount Royal Shopping Center University Conoco submitting petition to vacate Prospect Avenue from Norton Street to Woodland Avenue. -- Assessor

97-0428-17 Canal Properties, Inc., submitting letter appealing the technical review advisory committee for the DWMX-D denial to delete the requirement to install a black iron fence and instead replace it with additional landscaping at 310 Canal Park Drive (Hampton Inn Hotel). -- Committee 2 (planning)

97-0428-16 Duluth Preservation Alliance submitting letter regarding portions of the proposed 1998 street improvement program (97-0292R). -- Received

97-0428-34 Joe Henry, et al. (12 signatures) submitting request to remove First Street from 24th to 26th Avenues East from the 1998 street improvement program (97-0292R). -- Received

97-0428-35 Clayt Kruger submitting letter regarding street lighting (97-0345R). -- Received

97-0428-03 McGladrey & Pullen, LLP, submitting the 1996 legal compliance audit for Miller-Dwan Medical Center. -- Received

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**REPORTS OF OFFICERS**

97-0428-04 Assessor submitting:

(a) Letter of insufficiency pertaining to petition to reclassify from R-2 to C-2 the westerly 33-1/3 feet of Lot 3, Block 17, Hazelwood Addition to Oneota;

(b) Letters of sufficiency pertaining to petitions to vacate: (1) Prospect Avenue from Norton Street to Woodland Avenue; (2) Greysolon Road between 21st and 22nd Avenues East and 22nd Avenue East from Jefferson Street to Greysolon Road. -- Received

97-0428-05 Community development and housing division submitting February, 1997, HRA housing rehabilitation report. -- Received

97-0428-06 Engineering division submitting monthly project status report for April, 1997. -- Received

97-0428-07 Purchasing agent submitting emergency order for repair of Lift Station No. 16 awarded to Utility Systems of America for \$6,900. -- Received

- - -

**REPORTS OF BOARDS AND COMMISSIONS**

97-0428-08 Board of zoning appeals minutes of March 25, 1997, meeting. -- Received

97-0428-09 Duluth airport authority: (a) Minutes of February 18, 1997, meeting; (b) December 31, 1996, balance sheet. -- Received

97-0428-10 Duluth transit authority minutes of March 31, 1997, meeting. -- Received

97-0428-11 Heritage preservation commission minutes of March 19, 1997, meeting. -- Received

97-0428-12 Planning commission minutes of March 11, 1997, meeting. -- Received

97-0428-13 Sanitary sewer board of WLSSD minutes of March 24, 1997, meeting. -- Received

97-0428-14 Special assessment board report, findings and recommendations of: (a) February 25; (b) March 25, 1997, regarding the proposed improvement of Railroad Street from Eighth Avenue West to Garfield Avenue. -- Received

97-0428-15 SRO housing commission minutes of March 12, 1997, meeting. -- Received

- - -

### **MOTIONS AND RESOLUTIONS**

Resolution 97-0345, by Councilor Wheeler, authorizing execution of an agreement with the Canal Park Merchants Association regarding the enhanced lighting program in the Canal Park area, was introduced for discussion.

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

Brian Daugherty, president of the Canal Park Business Association, expressed support for the resolution. He noted that it is hoped that this additional lighting will enhance and solidify the retail position of the Canal Park area in the winter months.

Councilor Hogg noted that many dollars have been spent in the Canal Park business district over the years and that, economically, it is doing much better than other districts in the city. Therefore, he believes it is no longer necessary for it to receive subsidies from the city and taxpayers.

Councilor Hales stated that the city has supported increased lighting in other business districts and there is no reason for this area not to have the same.

Resolution 97-0345 was adopted as follows:

**BY COUNCILOR WHEELER:**

**RESOLVED**, that the proper city officers are hereby authorized to execute an agreement with the Canal Park Merchants Association under which the city will reimburse such business association for the purchase of tree lighting for winter promotion of the Canal Park area, which agreement is on file in the office of the city clerk as Public Document No. 97-0428-18, at a cost to the city of not to exceed \$20,000, which shall be paid from the Economic Development Fund 255.

Resolution 97-0345 was adopted upon the following vote:

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

Nays: Councilor Hogg -- 1

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

**BY COUNCILOR WHEELER:**

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

Section 1. The city has undertaken development of city-wide soccer field additions and alterations. Portions of the costs of such project have been paid with private donations for improvements of such facilities and portions provided by bond proceeds from the city. In light of several unforeseen factors including erosion concerns, landscaping needs and safety considerations, additional funds are needed to complete such project.



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Section 2. Under and pursuant to the provisions of Minnesota Laws 1974, Chapter 130, Minnesota Statutes Chapter 475 and the City Charter, the city is authorized to issue general obligation bonds to provide funds necessary to match state, private or federal grant funds for projects within the city boundaries.

Section 3. It is hereby found, determined and declared to be necessary and in the best interests of the city and its residents, that the city should issue its general obligation bonds in the amount of \$100,000 for the purpose of matching private grants to complete the improvements to the city-wide soccer field additions and alterations project.

Section 4. The city council hereby authorizes the city staff, financial advisor and bond counsel to arrange for the sale of the bonds.

Section 5. The terms, conditions, form, specifications and provisions for repayment of the bonds shall be set forth in subsequent ordinance and resolutions of the city council.

Resolution 97-0382 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0385, recommending that the city establish a comprehensive street maintenance program, Resolution 97-0386, recommending that the city conduct a comprehensive study of its fleet maintenance operations, and Resolution 97-0387, requesting the city to provide a five year analysis of snow removal budgets, by Councilor Wheeler, were introduced for discussion.

Councilor Wheeler moved to table the resolutions for further review, which motion was seconded and carried upon a unanimous vote.

- - -

Resolution 97-0218, by Councilor Rapaich, awarding contract to M-B Companies of Wisconsin for a paint striper truck in accordance with specifications on its low specification bid of \$187,714.77, was introduced for discussion.

Councilor Hogg stated that this piece of equipment will only be used approximately three days per year and suggested city administration to explore whether some other governmental entities could lease and use this machine so that the city is able to recover some of its investment.

Resolution 97-0218 was adopted as follows:

BY COUNCILOR RAPAICH:

RESOLVED, that M-B Companies of Wisconsin be and hereby is awarded a contract for furnishing and delivering a paint striper truck for the traffic operations division in accordance with specifications on its low specification bid of \$187,714.77, terms net 30, FOB destination, \$150,000 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2007, Object V708 and \$37,714.77 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2006, Object V618.

Resolution 97-0218 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Como Philgas Company be and hereby is awarded a contract for furnishing and delivering distribution of approximately 160,000 gallons of L.P. gas to various city locations for the various departments/divisions in accordance with specifications on its

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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low specification bid of approximately \$9,700, based on \$.08 and \$.04 per gallon, terms net 30, FOB job sites, \$2,200 payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5212; \$1,000 payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5212; \$5,000 payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5390; \$1,500 payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5385.

Resolution 97-0297 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0318, by Councilor Rapaich, awarding contract to Thompson Electric Company for construction of lighting for Lester-Amity ski trail in accordance with specifications on its low bid of \$56,149, was introduced for discussion.

Councilor Keenan supported the resolution but expressed concern that the trails are being used for multiple uses. He encouraged the council and administration to set a policy with regard to trail use in order to keep them in their best condition. He stated the city needs to do a better job with regard to protecting the city's assets.

Councilor Hales expressed concern that the money for this contract and annual lighting expenses would be better spent for lighting needs to make neighborhoods safer. She read a letter from Mr. Clayt Kruger (Public Document No. 97-0428-35) requesting lights for the Central Hillside neighborhood alleys, which he said are unsafe. She stated that safe neighborhoods should have priority over a contract to light a trail and moved to table the resolution for the administration and council to review policy with regard to where lighting is allowed and readjust priorities, which motion was seconded and discussed.

Councilor Keenan did not support tabling the resolution because it achieves much needed lighting for winter recreation.

Councilor Hogg noted that he supported the need for a report from the administration on neighborhood lighting, but did not favor tabling the resolution at this time.

Councilor Hales' motion to table the resolution failed upon the following vote:

Yeas: Councilor Bohlmann and Hales -- 2

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

Resolution 97-0318 was adopted as follows:

BY COUNCILOR RAPAICH:

RESOLVED, that Thompson Electric Company be and hereby is awarded a contract for construction of lighting for Lester-Amity cross country ski trail in accordance with specifications on its low specification bid of \$56,149, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C413.

Resolution 97-0318 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Asbestos Control and Consulting be and hereby is awarded a contract for asbestos abatement of domestic water pipes for the city hall Phase II in accordance with specifications on its low specification bid of \$25,000, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1997, Object C711.

Resolution 97-0320 was unanimously adopted.  
Approved April 28, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that A.G. O'Brien Plumbing and Heating be and hereby is awarded a contract for city hall water pipes replacement, Phase II in accordance with specifications on its low specification bid of \$63,224, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1997, Object C711.

Resolution 97-0322 was unanimously adopted.  
Approved April 28, 1997  
GARY L. DOTY, Mayor

- - -

At this time, 8:10 p.m., President Hardesty announced the public hearing regarding the 1998 street improvement program would begin (Public Document No. 97-0428-36).

- - -

At this time, 9:00 p.m., President Hardesty declared the public hearing closed and the regular order of business was resumed.

- - -

Councilor Talarico moved to consider at this time Resolution 97-0292, ordering the improvement of various streets and avenues pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth, which motion was seconded and carried upon a unanimous vote.

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

Richard Wilson presented pictures reflecting the deplorable condition of 25th Avenue East from First Street to Second Street and requested repair.

Peter Bergman spoke regarding the Woodland area and objected to the reconstruction of Allendale Street and the assessment process with regard to the formula that is used for calculation.

Councilor Keenan noted the deplorable condition of streets in the Endion neighborhood and supported proceeding with this resolution to enable the administration to work more closely with the residents to resolve the issues raised during the public hearing.

Councilor Wheeler moved to remove from the resolution the portions of East First Street between 24th and 26th Avenues East. He stated he is offering the amendment since ten of the 13 speakers who live on First Street between 24th and 26th Avenues East have raised concerns with regard to street design and blasting, and because the administration has expressed a willingness to work in more detail with the neighborhood. Councilor Wheeler's motion was seconded for discussion.

Responding to Councilor Prettner Solon, Richard Larson, director of public works department, stated that the administration's preference is that the program remain intact without deletion of the section of East First Street to allow the design phase to proceed; and that while it is not imperative that this resolution be approved this evening, any delay will result in a set back of work time to be spent on the project.

Councilor Prettner Solon advocated approving the resolution in its entirety which will allow engineering work to begin to address the issues raised with regard to historical preservation in the East First Street portion of the project. She noted that if the issues are not resolved

to the satisfaction of the council, the particular street project can be voted down when the contracts are awarded.

Responding to Councilor Hogg, Mr. Larson stated that a period of two weeks is not long enough to resolve the issues raised by residents of East First Street, but it would be enough time to determine a plan with regard to how the issues need to be addressed.

Councilor Wheeler stated he would not support delaying the whole resolution for a two week period.

Councilor Hales spoke in support of tabling the resolution for two weeks, stating that besides the unresolved issues for the two block portion of East First Street, there are also additional questions to be answered with regard to the sewers in the Jay Street neighborhood as were cited during the public hearing.

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

Yeas: Councilors Bohlmann, Hales and Hogg -- 3

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

Councilor Wheeler's amendment failed upon the following vote:

Yeas: Councilors Keenan, Wheeler and President Hardesty -- 3

Nays: Councilors Bohlmann, Hales, Hogg, Prettner Solon, Rapaich and Talarico -- 6

Councilor Bohlmann stated she disagrees with the inconsistent methods used to calculate assessments and said she will oppose the resolution.

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

Resolution 96-0292 failed upon the following vote (Public Document No. 97-0428-29):

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

*(City Charter requires 7/9 vote to pass.)*

- - -

At this time, 9:30 p.m., President Hardesty announced the public hearing regarding the inflow and infiltration loan and grant guidelines would begin (Public Document No. 97-0428-37).

- - -

At this time, 9:40 p.m., President Hardesty declared the public hearing closed and the regular order of business was resumed.

- - -

The rules were suspended upon a unanimous vote to consider at this time Resolution 97-0333, by Councilor Talarico, adopting guidelines for the inflow and infiltration grant and loan program.

Responding to Councilor Prettner Solon, Mr. Larson stated that funding for this program is provided through a sewer rate increase that was initiated earlier.

Resolution 97-0333 was adopted as follows:

BY COUNCILOR TALARICO:

WHEREAS, the legislature of the state of Minnesota has enacted legislation allowing the city to establish a program that provides assistance to property owners in financing the costs of abating inflow and infiltration on their property; and

WHEREAS, the city of Duluth desires to implement such a program; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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WHEREAS, the legislation requires the city to establish guidelines to govern the grant and loan programs;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth city council hereby adopts the inflow and infiltration grant and loan program guidelines on file in the office of the city clerk as Public Document No. 97-0428-31.

Resolution 97-0333 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Traffic Control Corporation be and hereby is awarded a contract for furnishing and delivering a control cabinet for the traffic operations division in accordance with specifications on its low specification bid of \$6,643.47, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2107, Object E741.

Resolution 97-0326 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Metroquip, Inc., be and hereby is awarded a contract for furnishing and delivering one 20 HP self propelled concrete saw for the traffic operations division in accordance with specifications on its low specification bid of \$5,749.94, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2107, Object E739.

Resolution 97-0352 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0357, by Councilor Rapaich, authorizing an agreement with Foth & Van Dyke & Associates for providing professional services to the city of Duluth in connection with the evaluation of the efficiency of the solid waste and recyclables collection system in Duluth in an amount not to exceed \$25,000, was introduced for discussion.

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

Darrell Johnson, representing Darrell Johnson Disposal and Hartel's Garbage and Recycling, questioned why this study is necessary. He noted that there are presently three garbage haulers in the Duluth area and that past problems seem to have been resolved. He emphasized that if regulations are changed or increased, his companies will be at greater risk than his larger competitors.

Councilor Hales stated that she cannot support another study regarding solid waste disposal and questioned what goal is to be accomplished. She noted that rates are presently reasonable and she receives no complaints. Councilor Hales encouraged the council to discuss policy with regard to solid waste, but discouraged spending funds on a report that already seems to have been done.

Councilor Talarico reviewed the history of the city's involvement with solid waste collection and the intent of this resolution.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Councilor Bohlmann questioned the need for another study and stated the only complaints she has heard are from WLSSD, which is losing money. She asked how this firm was selected.

Councilor Keenan stated that he will support the study at a cost of \$15,000 that WLSSD is required to pay.

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

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Monroe Truck Equipment be and hereby is awarded a contract for furnishing and delivering a sand spreader for the fleet services division in accordance with specifications on its low specification bid of \$9,315.56, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2006, Object V627.

Resolution 97-0359 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0361, by Councilor Rapaich, awarding contract to Chesley Freightliner-Duluth for a truck cab and chassis in accordance with specifications on its low specification bid of \$83,070, was introduced for discussion.

Councilor Hogg opposed the resolution, stating he does not feel there is a need for the city to own a logging truck and that the expenditure of \$83,000 for one is excessive.

Resolution 97-0361 was adopted as follows:

BY COUNCILOR RAPAICH:

RESOLVED, that Chesley Freightliner - Duluth be and hereby is awarded a contract for furnishing and delivering a truck cab and chassis for the fleet services in accordance with specifications on its low specification bid of \$83,070, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2007, Object V704.

Resolution 97-0361 was adopted upon the following vote:

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

Nays: Councilor Hogg -- 1

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license for the period beginning May 1, 1997, and ending April 30, 1998, subject to departmental approvals, and the payment of sales and property taxes:

P & E Investments, Inc. (Fourth Street Spur), 602 East Fourth Street, with Paul M. Fink, president/treasurer and 50 percent stockholder, and Earl A. King, vice president/secretary and 50 percent stockholder.

Resolution 97-0363 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals and any specific restrictions:

College of St. Scholastica, 1200 Kenwood Avenue, for May 7 & 9, 1997, with Melanie Rotz, manager.

Resolution 97-0364 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor license, subject to departmental approvals:

Lemon's Reef, Inc. (Reef Bar), 2002 London Road.

Resolution 97-0365 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of stock of the following off sale intoxicating liquor license, for the period ending August 31, 1997, subject to departmental approvals:

Piedmont Bottle Shop, Inc. (Piedmont Bottle Shop), 2828 Piedmont Avenue, transferred to Jon G. Sabick, 100% stockholder, and Joann Sabick, secretary/treasurer.

Resolution 97-0366 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor renewal licenses for the period beginning May 1, 1997, and ending April 30, 1998, subject to departmental approvals, and the payment of sales and property taxes, as listed in Public Document No. 97-0428-19.

Resolution 97-0367 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following off sale nonintoxicating malt liquor renewal licenses for the period beginning May 1, 1997, and ending April 30, 1998, subject to departmental approvals, and the payment of sales and property taxes, as listed in Public Document No. 97-0428-20.

Resolution 97-0368 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

ENVIRONMENTAL ADVISORY COUNCIL

Anne Fleischman for a term expiring January 5, 1998.

Jim Kurtz for a term expiring January 5, 1999.

Linda Sellner for a term expiring January 5, 2000.

Kinnan Stauber for a term expiring January 5, 2000.

Brian L. Fredrickson (environmental) for a term expiring January 5, 1998.

James Harvie (environmental) for a term expiring January 5, 1999.

Robert A. Seitz (environmental) for a term expiring January 5, 2000.

Dr. Thomas Zbaracki (environmental) for a term expiring January 5, 1999.

Resolution 97-0195 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the city is hereby authorized to hire Karen Rylander-Davis to provide certain training and development services to the city at a cost of \$1,500, which shall be paid from the General Fund 015-1510-5446.

Resolution 97-0344 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

NEIGHBORHOOD ADVISORY COUNCIL

Chester P. Johnson (Morgan Park) for a term expiring March 1, 2000, replacing Paul Fleming, who resigned.

CITYWIDE CITIZENS ADVISORY COMMITTEE

David D. Haglin (Morgan Park) for a term expiring March 1, 2000, replacing Paul Fleming who resigned.

Resolution 97-0348 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0383, by Councilor Bohlmann, appointing \_\_\_\_\_ to the civil service board replacing Mary Peterson, was introduced for discussion.

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

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city council did on September 27, 1993, vacate certain right-of-way by Resolution 93-0799; and

WHEREAS, there was an error in the legal description of the right-of-way to be vacated.



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth amend the legal description as stated in Resolution 93-0799 to read as follows:

“that 150 feet portion of Lombard Street located adjacent to Lots 14-16, Block 7, and Lots 1-3, Block 5, London Addition.”

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

Resolution 97-0278 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the Playfair Discovery Center project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0428-21, with the Discovery Center of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$9,000, payable out of the 1997 Federal Program Fund 262 - community development - Playfair Discovery Center Account No. 6032.

Resolution 97-0337 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0339, by Councilor Prettner Solon, authorizing an agreement with the Duluth YMCA mentoring project for \$15,000, was introduced for discussion.

Councilor Wheeler stated that he will abstain from voting on this resolution because he is on the board of directors of this organization.

Resolution 97-0339 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the YMCA Mentoring Program project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0428-22, with the Young Men's Christian Association (YMCA), Inc., of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$15,000, payable out of the 1997 Federal Program Fund 262 - community development - YMCA Mentoring Program Center Account No. 6030.

Resolution 97-0339 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Wheeler -- 1

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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WHEREAS, on October 28, 1996, the city established the American Indian Community Transitional Housing project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0428-23, with the American Indian Community Housing Organization (AICHO), Inc., of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$13,000, payable out of the 1997 Federal Program Fund 262 - community development - American Indian Community Transitional Housing Account No. 6031.

Resolution 97-0341 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

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

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of Moline Machinery, Ltd.; and

WHEREAS, it is consistent with the purpose of this governing unit to encourage employment and increase tax base.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports this application for funding on behalf of Moline Machinery, Ltd.

Resolution 97-0342 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the East Hillside HARP Program housing project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0428-24, with the housing and redevelopment authority of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$50,000, payable out of the 1997 Federal Program Fund 262 - community development - East Hillside HARP Program Account No. 6006.

Resolution 97-0358 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Rebecca Butler-Polaris Wilbert Vault Corporation has submitted to the city council a request for a special use permit for installation of a crematorium system on property described as Blocks 4, 5, and 6, West Duluth Sixth Division, and located at 1325 North 59th Avenue West; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Rebecca Butler-Polaris Wilbert Vault Corporation, to allow for the installation and operation of a cremation system at 1325 North 59th Avenue West, on the condition that the crematorium system be installed in accordance with the plan as identified as Public Document No. 97-0428-25.

Resolution 97-0373 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that McKay's Fleet Services be and hereby is awarded a contract for furnishing and delivering one 1997 Dodge 4 x 4 pickup truck for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$20,545.55, terms net 30, FOB destination, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0505, Object V712.

Resolution 97-0317 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Animal Spectrum, Inc., be and hereby is awarded a contract for furnishing and delivering 776 cases of various zoo animal food for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$14,961.40, terms net 30, FOB destination, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5245.

Resolution 97-0321 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with L.H.B. Engineers & Architects, on an hourly basis, for the sum of not to exceed \$25,331, from Capital Fund 450, Agency 015, Org 1997, Obj C715, for providing certain engineering services to the city of Duluth in connection with the Lakewalk slope stabilization & scenic overlook, 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. 97-0428-26.

Resolution 97-0362 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0372, by Councilor Keenan, awarding contract to Scotts Proturf Division for approximately 50,000 pounds of various fertilizers in accordance with specifications on it low bid of \$28,897.71, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Councilors discussed the resolution with regard to the content of the fertilizers and whether they include pesticides or herbicides.

Responding to councilors, City Attorney Dinan stated that a resolution adopted previously by the city council was a recommendation only and that if the administration found it necessary to use chemicals, they could do so at their discretion.

Resolution 97-0372 was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that Scotts Proturf Division be and hereby is awarded a contract for furnishing and delivering approximately 50,000 pounds of various fertilizers for the golf courses in accordance with specifications on its low specification bid of \$28,897.71, terms net 30, FOB shipping point, payable out of Golf Fund 503, Dept./Agency 400, Organization 0500, Object 5229.

Resolution 97-0372 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

WHEREAS, that Northland Constructors of Duluth be and hereby is authorized to construct a parking lot, addition chain link fencing, and landscape amenities and slope stabilization (Change Order #6 to Contract 17544), in an amount of \$120,000, payable from Capital Fund 450, Object C404.

Resolution 97-0374 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that M.T.I. Distributing Company be and hereby is awarded a contract for furnishing and delivering irrigation sprinkle head conversion parts to Lester and Enger golf courses for the park and recreation department in accordance with specifications on its low specification bid of \$29,359.92, terms net, FOB destination, \$13,723.59 payable out of Golf Fund 503, Dept./Agency 400, Organization 0500, Activity LSTR, Object 5220 and \$15,636.33 payable out of Golf Fund 503, Dept./Agency 400, Organization 0500, Activity ENGR, Object 5220.

Resolution 97-0375 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

WHEREAS, pursuant to Minnesota Statutes Annotated, Section 410.12, Subd. 7, the Charter Commission has recommended to the city council that it adopt an ordinance amending Sections 8 and 31 of the City Charter; and

WHEREAS, said Section 410.12, Subd. 7, requires that before the council, upon recommendation of the Charter Commission, may adopt an ordinance amending the Charter, it must first hold a public hearing on the matter upon two weeks published notice of the text of the proposed ordinance;

NOW, THEREFORE, BE IT RESOLVED, that a public hearing on the proposed amendment to the City Charter is hereby called for May 27, 1997, at 8:00 p.m. in the Council

Chambers at the Duluth City Hall, and the city clerk is hereby authorized and directed to cause to be published in the Duluth News-Tribune a notice of hearing, as required by law, and the full text of the proposed ordinance, said notice of hearing to be in the following form:

NOTICE OF HEARING

Pursuant to Minnesota Statutes Annotated, Section 410.12, Subd. 7, notice is hereby given by the city of Duluth that on May 27, 1997, at 8:00 p.m., in the Council Chambers at the Duluth City Hall, the city council of the city of Duluth will conduct a public hearing on the question of the adoption of an ordinance amending Sections 8 and 31 of the City Charter in the manner hereinafter set forth:

[text of proposed ordinance]

Resolution 97-0343 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0369, by President Hardesty, amending Resolution 97-0338 relating to appointment of a task force to study the living wage issue, was introduced for discussion.

President Hardesty outlined the proposed changes to the original resolution. It gives greater flexibility to the mayor to appoint whomever he wishes instead of limiting him to city staff and changes the deadline to June 16 instead of May 27.

Councilor Keenan stated that although he voted against the original resolution, he supports this amendment because he believes it makes the resolution stronger.

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

Erik Peterson, representing the Coalition for a Living Wage, expressed concern about delaying the deadline to June 16; and with regard to appointments of the mayor, he stated the importance of appointing individuals who are authorized to speak for the city's interests, eliminating the need for additional city staff involvement which may prolong discussions. He conveyed the coalition's desire and preparedness to move forward without delay on the issue.

Councilor Wheeler stated he will not raise his objections to these changes because it is important to move forward on the issue. He noted that it is unfortunate that the task force was created two weeks ago and has not yet met for discussion.

Councilor Bohlmann did not support the establishment of a deadline.

Councilor Hogg moved to call the question, which motion was seconded and carried upon a unanimous vote.

Resolution 97-0369 was adopted as follows:

BY PRESIDENT HARDESTY:

RESOLVED, that Resolution 97-0338, adopted on April 14, 1997, is hereby amended by amending item (c) in the fourth paragraph to read as follows:

“(c) Two members shall be appointed by the mayor; and”;

and by amending the date in the last paragraph from “May 27, 1997” to “June 16, 1997.”

Resolution 97-0369 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Minnegasco, Inc., be and hereby is awarded a contract for furnishing and delivering natural gas odorant for 1997 for the gas division in accordance with specifica-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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tions on its low specification bid of \$12,170, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0555, Object 5280.

Resolution 97-0296 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Dresser Measurement Operation be and hereby is awarded a contract for furnishing and delivering 62 line mounted Roots rotary gas meters for the gas division in accordance with specifications on its low specification bid of \$76,250.81, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 97-0315 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Minnesota Pipe and Equipment be and hereby is awarded a contract for furnishing and delivering various sizes and quantities of copper corporations for the water division in accordance with specifications on its low specification bid of \$12,362.52, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 97-0316 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that W.L. Traffic Supply be and hereby is awarded a contract for furnishing and delivering approximately 450 traffic cones for the traffic operations division and water and gas department in accordance with specifications on its low specification bid of \$5,047.08, terms net 30, FOB shipping point, \$1,682.36 payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5219; \$1,682.36 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5240; and \$1,682.36 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5240.

Resolution 97-0328 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Cindy A. Newville relating to the construction of a six inch ductile iron water main and sanitary sewer in 87th Avenue West from 1,200 feet north of Lawn Street to a point 150 feet northerly; said agreement to be in the form of Public Document No. 97-0428-27 on file in the office of the city clerk.

Resolution 97-0340 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Viele Contracting, Inc., be and hereby is awarded a contract for construction of a water main in 11th Street from Fifth Avenue East to 195 feet westerly for the water and gas department in accordance with specifications on its low specification bid of \$31,930.95, terms net 30, FOB job site, payable out of Water Fund 510, Agency 900, Organization 0505, Object 5532.

Resolution 97-0347 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Progressive Consulting Engineers, Inc., for professional services to provide a cost-of-service study to determine equitable rates for the city of Duluth to provide water to the cities of Hermantown and Proctor and Rice Lake Township, which agreement is on file in the office of the city clerk as Public Document No. 97-0428-28, payment not to exceed \$35,000 with 50% of the actual cost of the study, not to exceed \$17,500 payable from Public Utility Fund 510, the remaining 50% of the actual cost of the study to be paid by the cities of Hermantown and Proctor and Rice Lake Township, as follows: Hermantown 53.9%, Proctor 39.6% and Rice Lake Township 6.5%.

Resolution 97-0349 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Hydro Supply Company be and hereby is awarded a contract for furnishing and delivering 1,188 cold water meters in various sizes for the water and gas department in accordance with specifications on its low specification bid of \$97,322.49, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 97-0371 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that it is hereby deemed necessary for public convenience and safety, and it is hereby ordered that sidewalks be constructed or repaired at various city sites (city project no. 8966SW97).

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made: that the estimated total cost of said improvement as estimated by the city engineer is \$427,000 payable from the Special Assessment Fund 810, Agency 038, Organization 5298, Object 5530; that approximately \$40,000 of the cost of said improvements be defrayed by general obligation of the city, payable from the permanent improvement fund; that approximately \$100,000 of the cost of said improvement be payable from Capital Improvement Fund 450, Agency 015, Organization 1997, Object C708, for American Disabilities Act curb cuts and sidewalk ramps; that \$60,000 of the cost of said improvements

be payable from the Community Development Block Grant Endion Sidewalk Safety Account 262-620-6012; that \$22,000 of the cost of said improvements be payable from the Community Development Block Grant West Duluth Sidewalks Account 262-620-6016; that approximately \$5,000 be payable from the Sanitary Sewer Utility Fund 530; that approximately \$5,000 be payable from the Water Utility Fund 510; and that approximately \$195,000 of the cost of said improvement be defrayed by special assessment against the land and premises specially benefited; that the assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter, and that said improvement is hereby ordered.

Resolution 97-0286 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Northland Bituminous, Inc., be and hereby is awarded a contract for resurfacing 38th Avenue West for the engineering division in accordance with specifications on its low specification bid of \$7,045, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5290, Object 5530.

Resolution 97-0295 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete a structural evaluation of Chester Creek Bridge on Ninth Street (approximately 15th Avenue East); and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to accomplish this project; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$2,996, will be payable from the General Fund 100, Dept./Agency 500, Organization 1930, Object 5303.

Resolution 97-0298 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to perform continuation of demonstration study to: redefine boundaries of the city of Duluth sewer basins, analyze the effectiveness of inflow and infiltration remediation of Water Shed Basins 6, 20 and 4, compile data, evaluate 1997 study areas; and

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



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$100,000, will be payable from the Sewer Fund 530, Dept./Agency 500, Organization 0581, Object 5303.

Resolution 97-0299 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-0515 to Seaway Engineering Company for furnishing construction engineering consultant services for Arrowhead Road; Kenwood Avenue; Howard Gnesen Road, be amended to increase the amount by \$78,862.40 for a new total of \$303,768.40, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5285, Object 5530.

Resolution 97-0309 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 95-0601 to Seaway Engineering for furnishing construction engineering services for 1995 street improvement project on Lower Lester Park, be amended to increase the amount by \$15,565 for a new total of \$177,495, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9501, Object 5303.

Resolution 97-0311 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-0966 to Seaway Engineering Company for furnishing design engineering services required for 1997 street improvement program for the Upper Woodland-2 project, be amended to increase the amount by \$142,352 for a new total of \$273,254, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9703, Object 5530.

Resolution 97-0312 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-1040 to L.H.B. Engineers and Architects for furnishing design engineering services required for 1997 street improvement program for the lower Hunters Park-2 project, be amended to increase the amount by \$133,619 for a new total of \$250,226, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9704, Object 5530.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Resolution 97-0313 was unanimously adopted.  
Approved April 28, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-0965 to Salo Engineering, Inc., for furnishing design engineering services required for 1997 street improvement program for the Norton Park East project, be amended to increase the amount by \$93,346.28 for a new total of \$196,346.28, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9701, Object 5530.

Resolution 97-0314 was unanimously adopted.  
Approved April 28, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Flex-O-Lite, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 32,000 glass beads for the traffic operations division in accordance with specifications on its low specification bid of \$6,045.79, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5226.

Resolution 97-0323 was unanimously adopted.  
Approved April 28, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that M-R Sign Company, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 1,200 sign posts for the traffic operations division in accordance with specifications on its low specification bid of \$6,034.29, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5226.

Resolution 97-0324 was unanimously adopted.  
Approved April 28, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that M-R Sign Company, Inc., be and hereby is awarded a contract for furnishing and delivering various traffic signs for the traffic operations division in accordance with specifications on its low specification bid of \$15,586.66, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5226.

Resolution 97-0325 was unanimously adopted.  
Approved April 28, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Buchen S.I.S., Inc., be and hereby is awarded a contract for furnishing, delivering and installing a closed circuit television equipment for the sewer division in accordance with specifications on its low specification bid of \$64,963.40, terms net 30, FOB job site, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Resolution 97-0327 was unanimously adopted.  
Approved April 28, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement, on file in the office of the city clerk as Public Document No. 97-0428-30, with Intercity Oil Company, Inc., for the acquisition of a perpetual drainage and utility easement in the southerly 25 feet of the northeasterly 111.5 feet of the southeasterly 24 feet of Lot 10, Block 2, Lemagie Park Division of Duluth, and a temporary easement for construction purposes over, under, across and through the southwesterly 35 feet of the northeasterly 116.5 feet of the southeasterly 40 feet of Lot 10, Block 2, Lemagie Park Division of Duluth, for a consideration of not to exceed \$5,500, payable from the PI fund, to be reimbursed by MSA funds.

Resolution 97-0332 was unanimously adopted.  
Approved April 28, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, it appears that it may be necessary to construct a permanent street on Denney Drive from Skyline Parkway to approximately 792 feet northerly (City Job Number 9004RS97).

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of this council to cause this improvement to be made, provided that further information demonstrated that the improvement should be made.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project, and will direct further procedures prescribed by Section 62 of the Charter.

Resolution 97-0350 was unanimously adopted.  
Approved April 28, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, it appears that it may be necessary that a sanitary sewer main be constructed in Arrowhead Road from Arlington Avenue to 4,355 feet westerly.

NOW, THEREFORE, BE IT RESOLVED, that it is the intention of this council to cause construction of said sanitary sewer main, provided that further investigation demonstrates that such action be taken.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared, plans and specifications for said project and do those further things prescribed by Section 62 of the Charter.

Resolution 97-0351 was unanimously adopted.  
Approved April 28, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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RESOLVED, that Vogel Paint and Wax Company, Inc., be and hereby is awarded a contract for furnishing and delivering 2,035 gallons of yellow traffic marking paint and 1,475 gallons of white traffic marking paint for the traffic operations division in accordance with specifications on its low specification bid of \$20,577.96, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5226.

Resolution 97-0353 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-1041 to R.R.E.M., Inc., for furnishing design engineering services required for 1997 street improvement program for the Lower Lester Park-2 project, be amended to increase the amount by \$65,532 for a new total of \$165,746, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9705, Object 5530.

Resolution 97-0354 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 94-0227 to Seaway Engineering for furnishing consulting engineering services to reconstruct Railroad Street from Garfield Avenue to Eighth Avenue West, be amended to increase the amount by \$226,347 for a new total of \$286,315, \$81,535 payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2149, Object 5303 and \$204,780 payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5299, Object 5530.

Resolution 97-0370 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete a construction project for Michigan Street from First Avenue West to Seventh Avenue West; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to design the project and provide construction engineering; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$50,883, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2144, Object 5303. The cost of this project is reimbursable by municipal state aid (M.S.A.).

Resolution 97-0376 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Northland Constructors of Duluth, Inc., be and hereby is awarded a contract for construction of 20th Avenue East 1997 street improvements for the engineering division in accordance with specifications on its low specification bid of \$335,423.40, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9706, Object 5530.

Resolution 97-0377 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Northwest Asphalt Maintenance be and hereby is awarded a contract for furnishing crack sealing of selected bituminous streets for the street maintenance division in accordance with specifications on its low specification bid of \$.929 per pound applied on flat surfaces and on hilly surfaces, not to exceed \$102,000, terms net 30, FOB job sites, \$100,000 payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5403 and \$2,000 payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5441.

Resolution 97-0378 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires field and laboratory testing; and

WHEREAS, the city desires to hire a consulting firm to provide the services required for support of construction, operation and maintenance of city system; and

WHEREAS, American Engineering Testing, Inc., has submitted a proposal for field and laboratory testing services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with American Engineering Testing, Inc., to provide the city with such field and laboratory testing services.

BE IT FURTHER RESOLVED, that the cost of said field and laboratory testing services, estimated at \$48,000, will be payable from the various fund, dept./agency various, organization various, object various.

Resolution 97-0380 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires field and laboratory testing; and

WHEREAS, the city desires to hire a consulting firm to provide the services required for support of construction, operation and maintenance of city system; and

WHEREAS, Twin Ports Testing, Inc., has submitted a proposal for field and laboratory testing services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Twin Ports Testing, Inc., to provide the city with such field and laboratory testing services.

BE IT FURTHER RESOLVED, that the cost of said field and laboratory testing services, estimated at \$33,000, will be payable from the various fund, dept./agency various, organization various, object various.

Resolution 97-0381 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Northern Industrial Equipment be and hereby is awarded a contract for furnishing and delivering 37 Scott cylinders for SCBA's (self contained breathing apparatus) for the fire department in accordance with specifications on its low specification bid of \$19,676, terms net 20, FOB destination, \$10,752 payable out of General Fund 100, Dept./Agency 100, Organization 1505, Object 5241; \$8,573 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2106, Object B624; and \$351 payable out of General Fund 100, Dept./Agency 100, Organization 1502, Object 5241.

Resolution 97-0310 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that 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. 97-0428-32 with the city clerk, with the North Shore Bank of Commerce for the furnishing of premises in the Lakeside/Lester Park area to be used as a city neighborhood police station and for related purposes.

Resolution 97-0346 was unanimously adopted.

Approved April 28, 1997

GARY L. DOTY, Mayor

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### **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinance was read for the second time:

BY COUNCILOR KEENAN

97-005 - AN ORDINANCE PERTAINING TO MUNICIPAL GOLF COURSES; AMENDING ALCOHOLIC BEVERAGE REGULATIONS AND ESTABLISHING MINIMUM ATTIRE REGULATIONS; AMENDING SECTIONS 35-12 AND 35-25, DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Keenan noted the two regulation changes this ordinance proposes. It allows for 3.2 beer to be consumed both in the club house and on the golf course and it requires that everyone on the golf course to wear a shirt and shoes. He supported the proposed regulations, stating that they are reasonable.

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

Cindy Lilligard spoke against establishing a dress code, stating it is unnecessary.

Councilor Hales stated she believes people use good judgement in the way they dress. She said she believes the golf courses should be able to set their own policy with regard to appropriate attire for the golf course and she asked who will enforce this law if it is passed. She opposed the ordinance.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Councilor Keenan moved passage of the ordinance and the same failed upon the following vote (Public Document No. 97-0428-33):

Yeas: Councilors Hogg, Keenan and Prettner Solon -- 3

Nays: Councilors Bohlmann, Hales, Rapaich, Talarico, Wheeler and President Hardesty -- 6

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The meeting was adjourned at 10:58 p.m.

JEFFREY J. COX, City Clerk

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, May 12, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 1

- - -

The minutes of council meetings held on October 15, 21 and 28, 1996, were approved upon a unanimous vote.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0512-01 David and Penny Seehus petitioning for the construction of a six inch DI water main and a two inch PEHP gas main in 65th Avenue West from Roosevelt Street northerly approximately 108 feet. -- Assessor

97-0512-02 Minnesota state auditor submitting Duluth transit authority audit report for the years ended December 31, 1996 and 1995. -- Received

97-0512-15 John Hamel submitting communications regarding Endion area streets (supported by 19 signatures) (97-0384R). -- Received

97-0512-03 The following submitting letters regarding the proposed living wage issue (97-0338R): (a) Thomas Bieter; (b) Bill Olson; (c) Earl Rosenwinkel. -- Received

97-0512-16 The following submitting letters regarding the proposed 1998 street improvement program (97-0292R): (a) Glenn L. Harris; (b) Joe and Ruth Henry; (c) Richard Wilson (supported by 49 signatures). -- Received

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**REPORTS OF OFFICERS**

97-0512-04 Assessor submitting:

(a) Affidavits of mailing of notice of public hearings by the special assessment board on May 13, 1997 for the proposed improvements of:

(1) Arrowhead Road from Arlington Avenue westerly (water, gas and sewer mains);

(2) Branch Alley from 29th Avenue East to 30th Avenue East (permanent residential design alley);

(b) Confirmation of assessment rolls levied to defray the assessable portions of the sidewalk program for 1996 (Contract #5289) (assessable amount: \$78,924.76), and demolition assessments (Contract #5301) (assessable amount: \$8,972). -- Clerk

(c) Letter of insufficiency of petition to reclassify from R-2 to C-2 property described as westerly 33-1/3 feet of Lot 3, Block 17, Hazelwood Addition to Oneota. -- Received

97-0512-05 Treasurer submitting acceptance of gambling funds from Duluth Optimist Club. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

97-0512-06 Board of directors of trusts for Miller-Dwan Hospital and Medical Center minutes of March 20, 1997, meeting. -- Received

97-0512-07 Citywide citizens advisory committee minutes of April 22, 1997, meeting. -- Received

97-0512-08 Civil service board minutes of March 4, 1997, meeting. -- Received



97-0512-09 Duluth transit authority: (a) Minutes of April 16, 1997, meeting; (b) Minutes of April 23, 1997, operations committee meeting; (c) March 1997 income statement; (d) March 1997 financial statement summary. -- Received

97-0512-10 Housing and redevelopment authority of Duluth minutes of March 25, 1997, meeting. -- Received

97-0512-11 Planning commission minutes of March 26, 1997, meeting. -- Received

97-0512-12 Sanitary sewer board of WLSSD minutes of: (a) April 14; (b) April 28, 1997, meetings. -- Received

97-0512-13 Seaway Port authority of Duluth: (a) Minutes of: (1) February 19, 1997; (2) March 10, 1997, meetings; (b) January 1997 financial statements. -- Received

97-0512-14 Tree commission minutes of April 14, 1997, meeting. -- Received

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### **OPPORTUNITY FOR CITIZENS TO BE HEARD**

Quin Sweetman and Erik Peterson, representatives of the Coalition for a Living Wage for a spoke extensively about an ordinance that was proposed by the coalition which will be discussed by the living wage task force.

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### **RESOLUTION RECONSIDERED**

Councilor Hogg moved to reconsider Resolution 97-0292, ordering the improvement of various streets and avenues pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth (1998 street improvement program), which motion was seconded and carried upon a unanimous vote.

Councilor Hogg reviewed that on April 28, 1997, the council failed to pass this resolution because of unanswered questions regarding improvements of the 4800 block of Jay Street and the 2400 and 2500 blocks of East First Street. He stated that he believes the council's desire is to go forward with the street program and that reconsidering the resolution is a simpler and faster way to expedite the issue than asking the administration to submit a new resolution without those two projects included in the project. He stated his intent is to request that those three blocks be removed from the program.

Councilor Talarico reviewed the philosophy of why and how the street program has come to fruition and been put in place. He noted that one of the reasons that city streets are in such deplorable condition is that everyone wants their street improved as long as they are not assessed for it and it will not increase traffic in their neighborhood. He acknowledged that the assessment process has been controversial; however, the assessments have been calculated in the fairest way possible. Councilor Talarico stated that because of the poor condition of most city streets, this street program, as proposed, is the only viable solution the city can afford to remedy its street problems.

Councilor Hogg moved to delete the 2400 and 2500 blocks of East First Street and the 4800 block of Jay Street from the resolution, which motion was seconded for discussion.

Councilor Keenan agreed with Councilor Talarico and stated he is convinced the only reason the residents of these streets oppose the specific improvements is because they do not want to pay the assessment. He opposed Councilor Hogg's amendment, noting that if the council starts pulling sections of the project out, the program will become a mess of patched streets. He encouraged consistent support of entire street projects as presented by the administration and stated that amendments such as this tie up the whole street program process and will cause delays for future years' projects.

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

Jim Berarducci supported eliminating the 2400 and 2500 blocks of East First Street until neighborhood concerns can be resolved. He stated that 26th Avenue East from Superior Street to Eighth Street was not widened when it was improved last year and has become a feeder street to Superior Street with no accommodation for speed traffic control. He spoke of misunderstandings between neighborhood residents and the city administration related to the replacement of yield signs at 26th Avenue East and Second Street which have not been resolved. He advocated that city engineers work more closely with residents when planning traffic flow because it is the residents who must live with it in the end. Mr. Berarducci noted further unresolved problems he has with flooding of his basement since blasting for the 26th Avenue East project last year occurred and he expressed concern that additional blasting for the East First Street improvement will cause further damage. He concluded by stating that the city needs a liaison who is in charge and familiar with the project for residents to work through when problems and questions arise.

Pat Heaslip and Robert Barrett stated they agree with Councilor Talarico's philosophy with regard to the street program, but disagreed that the worst streets are being improved first. They advocated deferring improvement of Jay Street until the next five year program.

Responding to Councilor Wheeler, Richard Larson, director of public works, noted that the compelling reasons for improving Jay Street at this time include 47th and 48th Avenues East are in very poor condition and improvement will cause the intersections to be improved which will leave only small sections of Jay Street unimproved. He noted that the 4800 and 4900 blocks of Jay Street are constructed of bituminous overlay which is only expected to last for a maximum of only three more years, and he added that the 4900 block of Jay Street is also in very poor condition. Mr. Larson said that by improving whole streets at the same time is more cost effective and will enable those streets to be maintenance free for many years.

Councilor Hales stated that she opposes the street improvement program because it does not provide for street maintenance in her district.

Councilor Bohlmann stated she supports Councilor Hogg's amendment because she believes the residents' reasons for requesting deletion of portions of streets are valid. She added, however, that she cannot support the resolution because she disagrees with the process for calculating assessments.

Councilor Hogg said he does not believe that eliminating three blocks from this approximately six miles of street reconstruction will significantly affect or delay the proposed program.

Responding to Councilor Hales, Administrative Assistant Nollenberger explained in detail how the street improvement program and the street maintenance program are distinctly different and why they cannot be combined.

John Strtitz emphasized that the lowest block of 25th Avenue East is one of the oldest roads in Minnesota and has historical significance. He urged councilors to include it in Councilor Hogg's amendment so that preservation of it can be further studied.

Councilor Hogg stated that he considered including 25th Avenue East in his amendment but decided not to because he believes city administration is aware of the street's historical significance and will be open and responsive to the restoration of it.

Responding to Councilor Wheeler, Mr. Larson said there are several other streets above Fourth Street that fall into the same category as this block on 25th Avenue East and that

policy of the state of Minnesota compels the city to follow strict guidelines with regard to retaining their historical character. He noted the same process was required for the design of 26th Avenue East.

Councilor Talarico stated that he does not agree with the reasons expressed to oppose this resolution, and especially the holding hostage of this project for a street maintenance plan. He noted that the council has specifically requested a program that addresses street maintenance which is to be included in policy setting discussions and said he is confident one will be presented soon. Councilor Talarico said he believes the problems are within the program so this resolution should be approved with the understanding that if conditions are not met, the project will be stopped in the future. He urged amendment of the resolution, if that is what the majority of the council desires, for the sake of moving forward with the program. He moved to call the question, which motion was seconded and passed unanimously.

Councilor Hogg's amendment passed upon the following vote:

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

Nays: Councilors Keenan, Prettner Solon and Talarico -- 3

Resolution 97-0292, as amended, failed upon the following vote (Public Document No. 97-0512-28):

Yeas: Hales, Hogg, Prettner Solon, Rapaich and Wheeler -- 5

Nays: Bohlmann, Keenan, Talarico and President Hardesty -- 4

*(City Charter requires 7/9 vote to pass.)*

*(Resolution 97-0292 was reconsidered later in this meeting.)*

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### **MOTIONS AND RESOLUTIONS**

BY COUNCILOR RAPAICH:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Caterpillar equipment for the fleet services division as needed during 1997, for an estimated total of \$10,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 97-0398 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that North Country Equipment be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for John Deere equipment for the fleet services division as needed during 1997, for an estimated total of \$8,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 97-0399 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that St. Joseph Equipment be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Case equipment for the fleet services division as

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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needed during 1997, estimated to total \$20,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 97-0400 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the city is hereby authorized to enter into a joint powers agreement with the University of Minnesota, under which the city will be permitted to purchase supplies, commodities and equipment from competitively bid contracts entered into by the university with vendors, which agreement is on file in the office of the city clerk as Public Document No. 97-0512-18.

Resolution 97-0404 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Don Holm Construction Company be and hereby is awarded a contract for construction of the police firing range building/Phase II for the city architect division in accordance with specifications on its low specification bid of \$48,550, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1997, Object C702.

Resolution 97-0406 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Glacier Paving, Inc., be and hereby is awarded a contract for bituminous surfacing of Wade Stadium parking lot for the engineering division in accordance with specifications on its low specification bid of \$59,260, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1997, Object C714.

Resolution 97-0407 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

WHEREAS, the city of Duluth desires to replace the existing automated library system; and

WHEREAS, the city desires to hire a consulting specialist to provide the consulting services required to develop specification, request for proposal (RFP) and system evaluation; and

WHEREAS, Joseph Ford and Associates, Inc., has submitted a proposal for providing library computerized consulting services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Joseph Ford and Associates, Inc., to provide the city with such consultant services.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BE IT FURTHER RESOLVED, that the cost of said library computerization consultant services, estimated at \$20,800, will be payable from the Capital Improvements Fund 450, Dept./Agency 015, Organization 2107, Object E728.

Resolution 97-0410 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Zenith/Kremer Disposal, Inc., be and hereby is awarded a contract for garbage/refuse removal for the various departments and divisions in accordance with specifications on its low specification bid of \$87,670, terms net 30, FOB job sites, payable out of various fund, dept./agency various, organization various, object various.

Resolution 97-0423 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

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

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

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

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
Owls Club	118 East Second Street	April 2, 1997

Resolution 97-0425 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

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Resolution 97-0415, by Councilor Bohlmann, approving new specifications for the civil service classification of assistant golf course superintendent, was introduced for discussion.

Responding to Councilor Bohlmann, Mr. Nollenberger explained that the pay increase for this job specification is actually a four step increase. He noted that the reason for evaluation of the job specification and pay increase is due to the addition of requirements and knowledge necessary to maintain turf and other issues related to the position, and is an effort to get people with higher levels of qualifications related to turf management to apply, which will result in higher quality golf courses. He added that this is a new position which has a completely different level of expectation in terms of technical expertise and abilities.

Councilor Hogg stated that he is uncomfortable with approving this position because it is creating a 12 month position for golf courses that are open for approximately five to six months and he questioned what this individual will be doing when golf courses are closed.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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He moved to table the resolution for a report and committee meeting, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Keenan -- 1

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the citywide citizens advisory committee (CCAC) for the HUD-funded community development block grant (CDBG) program at their meeting on April 22, 1997, has passed a resolution recommending funding changes as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized to make the following funding transfers in the Federal Program Fund 262 - 1996 HUD-funded community development accounts as set forth below:

1996 Duluth HUD Funded CDBG Program

<u>Account</u>	<u>Project</u>	<u>Orig.</u>	<u>Mod.</u>	<u>Revised</u>
6906	Endion Area Streets - East Hillside		\$245,000	+50,000 \$295,000
6935	Contingency	\$ 69,000	-50,000	\$ 19,000

Resolution 97-0384 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

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Resolution 97-0393, by Councilor Prettnner Solon, reversing the decision of the board of zoning appeals to grant a request to relax the front yard setback from 30 feet to 26 feet for the construction of a 23 feet x 14 feet addition onto the front of an existing dwelling located at 1515 North Basswood Avenue, was introduced for discussion.

Councilor Prettnner Solon reviewed that a committee meeting was held regarding this issue and that a majority of the committee recommends approval of this resolution.

Resolution 97-0393 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Dean Benson has appealed to the city council the decision of the board of zoning appeals to deny a request to relax the front yard setback from 30 feet to 26 feet for the construction of a 23 feet x 14 feet addition onto the front of an existing dwelling on property located at 1515 North Basswood Avenue; and

WHEREAS, the city council has considered this appeal and determined that the required findings for granting of a variance to allow construction of a 23 foot x 14 foot addition 26 feet from the front property line can be made in this case based upon limits set forth in the zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the board of zoning appeals' decision of March 26, 1997, is hereby reversed by the city council, and the appeal is granted.

Resolution 97-0393 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the Duluth HRA Housing Rehabilitation Project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0512-19, with the housing and redevelopment authority of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$820,000, payable out of the 1997 Federal Program Fund 262 - Community Development HRA Housing Rehabilitation Account No. 6001.

Resolution 97-0394 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, George Hovland, Snowflake Cross Country Ski Center, has submitted to the city council a request for an amendment to a special use permit issued pursuant the Resolution No. 93-0872 to authorize construction of a volleyball court and a soccer field on property described as the SW¼ of the NE¼, Section 8, Township 50, Range 14, lying north and easterly of County Highway 4 (Rice Lake Road) and located at 4348 Rice Lake Road; and said application to amend said permit was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that the special use permit granted pursuant to Resolution No. 93-0872 is hereby amended to authorize construction and operation of a volleyball court and a soccer field, on the condition that the improvements be as shown and as identified on Public Document No. 97-0512-20 and that the terms and conditions of the Chapter 51 of the City Code be complied with.

Resolution 97-0395 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

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Resolution 97-0396, by Councilor Prettnner Solon, amending an agreement with Avant-Garde, Inc., authorizing access to Skyline Parkway from lots in Boulevard Terrace, First Addition, was introduced for discussion.

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

Sibyl Norris stated that she opposes this resolution and noted that this issue has been brought to the city council on five different occasions since 1977. She reviewed that she believes the reason the issue has been conditionally approved four times is because Mr. Hovland, the developer, does not wish to comply with the conditions imposed in prior resolutions. Ms. Norris stated her opposition relates mostly to the safety of pedestrians and bikers who use Skyline Parkway regularly and noted that this agreement allows for five separate driveways which will require backing out onto the roadway with poor visibility. She

expressed concern that building height restrictions are being eliminated and that multiple dwellings will be allowed.

Councilor Prettner Solon stated that she has received information that circumstances for the conditions no longer exist, citing the area is zoned single family residential which prevents construction of multiple dwellings, and that the zoning code includes height restrictions. She added that said she believes the roadway has been widened and that backing out onto the roadway is illegal.

Responding to Councilor Prettner Solon, Ms. Norris stated that only the Chester Park bridge is being improved and that Skyline Parkway has not been widened nor is it included in the street improvement program plans. She further stated there is a committee studying the issue of preserving Skyline Parkway.

Councilor Prettner Solon moved to table the resolution for clarification of questions raised, which motion was seconded and unanimously carried.

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Resolution 97-0418, by Councilor Prettner Solon, reversing the decision of the downtown waterfront design review committee to deny a request to change specifications for the landscape plan for the Hampton Inn development at 310 Canal Park Drive by Canal Properties, Inc., was introduced for discussion.

Councilor Prettner Solon reviewed that a committee meeting was held regarding this issue and that the planning committee's unanimous recommendation is to approve the resolution with the understanding that the developer will be allowed to landscape as shown in his computer drawing, which is attached to the resolution, instead of providing the required black iron fencing.

Councilor Prettner Solon moved to amend the resolution as follows:

(a) Add the following language at the end of the first paragraph:

"and to substitute for such fencing landscaping as shown in Public Document No. \_\_\_\_\_, on file in the office of the city clerk;" and

(b) Add the following language at the end of the third paragraph:

"subject to Canal Park Properties, Inc., providing landscaping along the front property line in substantial conformance with that shown in Public Document No. \_\_\_\_\_," which motion was seconded and carried upon a unanimous vote.

Resolution 97-0418, as amended, was adopted as follows:

**BY COUNCILOR PRETTNER SOLON:**

WHEREAS, Canal Properties, Inc., has appealed to the city council the decision of the DWMX-D design review committee to amend a previously issued certificate of appropriateness to allow deletion of a black iron fence along the front property line of the subject property, and to substitute for such fencing landscaping as shown in Public Document No. 97-0512-27, on file in the office of the city clerk; and

WHEREAS, the city council has held a public hearing to consider this appeal and has determined that the appellant has presented a plan which meets the intent of the DWMX-D ordinance.

NOW, THEREFORE, BE IT RESOLVED by the city council of the city of Duluth that the decision of the DWMX-D design review committee to deny deletion of the previously proposed approved black iron fence along the front property line of the Hampton Inn Hotel on property owned by Canal Properties, Inc., and located at 310 Canal Park Drive, is hereby reversed subject to Canal Park Properties, Inc., providing landscaping along the front property line in substantial conformance with that shown in Public Document No. 97-0512-27.



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Resolution 97-0418, as amended, was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that proper city officials are hereby authorized to modify city Contract No. 17671 with Woodland Hills for the provision of services to participants in the neighborhood youth service program by modifying the budget and replacing it with modified budget bearing "budget modification date 03/17/97 No. 1." Total contract amounts remain unchanged.

FURTHER RESOLVED, a copy of this modification shall be on file in the city clerk's office as Public Document No. 97-0512-21.

Resolution 97-0419 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, May 11-17, 1997, is National Historic Preservation Week; and

WHEREAS, the theme of this year's preservation week is "preservation begins at home"; and

WHEREAS, Duluth has an abundance of architecturally and historically significant structures and properties worthy of preservation; and

WHEREAS, many Duluthians have shown their personal commitment to preservation through investments of time and money in their properties; and

WHEREAS, preservation of the community's historic properties contributes to Duluth's uniqueness, attractiveness livability and economic strength; and

WHEREAS, preservation of Duluth's heritage serves to enhance our community through connecting to the past and investing in irreplaceable community resources; and

WHEREAS, a number of events have been scheduled during this week to highlight preservation efforts in Duluth.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, that the week of May 11 through May 17, 1997, is hereby declared Duluth Historic Preservation Week.

Resolution 97-0424 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Happy Campers, Inc., a Minnesota corporation, be and hereby is awarded a contract to lease the operation of Indian Point Campground (Public Document No. 97-0512-22) for a five year period for the 1997-2001 camping seasons in accordance with specifications on its proposal that includes payments to the city of 22 percent of the total gross camping revenues during the peak usage period of Memorial Day through Labor Day, and 11 percent of the total gross concession revenue for each entire camping season. Additional payments include 11 percent of total gross camping revenues for non-peak camping periods (prior to Memorial Day and after labor Day), and 22 percent of total gross revenues from shower timers for each entire camping season.

Resolution 97-0379 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Approved May 12, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute agreements, copies of which are filed with the city clerk as Public Document No. 97-0512-23 with the state of Minnesota, department of natural resources, authorizing the city to perform certain maintenance at the Clyde Avenue (Munger access) and Rice's Point boat launch sites, in consideration of \$1,500 to be paid by the department of natural resources to the city.

Resolution 97-0390 was unanimously adopted.

Approved May 12, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

Resolved that the proper city officers are hereby authorized to execute agreements with the following individuals to provide programs at the library: Anita Barr (\$400); Craig Lincoln (\$200); John Minczeski (\$400); Kristine Franklin (\$400); Mike Casey and David DiGiuseppe (\$200); and Dr. JoAnn Hanson-Stone (\$100); for a total of \$1,700; payable from General Fund 100, Agency 300, Organization-Library Services 1702, Object-other professional services 5319.

Resolution 97-0397 was unanimously adopted.

Approved May 12, 1997  
GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

BE IT RESOLVED, that the proper city officials are authorized to pay to Seaway Port authority of Duluth the sum of \$7,578.75 in full settlement of a claim for environmental cleanup at the former city compost site on the waterfront; payment to be from self-insurance fund.

Resolution 97-0389 was unanimously adopted.

Approved May 12, 1997  
GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to accept \$89,140 in funds from the Minnesota department of economic security to operate the Minnesota youth program for the period July 1, 1997, through June 30, 1998. A copy of this grant agreement shall be on file in the city clerk's office as Public Document No. 97-0512-24.

FURTHER RESOLVED, that monies received under this grant agreement shall be deposited to Fund No. 268, Budget Item No. 6205.

Resolution 97-0420 was unanimously adopted.

Approved May 12, 1997  
GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to accept on behalf of the city of Duluth, pursuant to the Laws of Minnesota, 1967, Chapter 374, \$103,344 from the

Minnesota department of economic security to operate the Title V Senior Community Service Employment Program from July 1, 1997, through June 30, 1998. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 97-0512-25.

FURTHER RESOLVED, that amounts received will be deposited in Fund No. 271, Budget Item No. 6324.

Resolution 97-0421 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0355, of intent to construct an eight inch ductile iron water main in Arrowhead Road from Swan Lake Road to Stanford Avenue and from Super America Division utility easement easterly approximately 230 feet, and Resolution 97-0356, of intent to construct a three inch and two inch P.E.H.P. gas main in Arrowhead Road from northerly Swan Lake Road to approximately 259 feet westerly of Arlington Avenue, by Councilor Hogg, were introduced for discussion.

Councilor Hogg stated that although he supports both of these resolutions, he will vote against them because he has not received maps related to the resolutions that he previously requested.

Resolution 97-0355 was adopted as follows:

BY COUNCILOR HOGG:

WHEREAS, it appears that it may be necessary that an eight inch ductile iron water main be constructed in Arrowhead Road from Swan Lake Road to Stanford Avenue and from Super America division utility easement easterly approximately 360 feet.

NOW, THEREFORE, BE IT RESOLVED, that it is the intention of this council to cause construction of said water main, provided that further investigation demonstrates that such action be taken.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared, plans and specifications for said project and do those further things prescribed by Section 62 of the Charter.

Resolution 97-0355 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved May 12, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0356 was adopted as follows:

BY COUNCILOR HOGG:

WHEREAS, it appears that it may be necessary that three inch and two inch P.E.H.P. gas main be constructed in Arrowhead Road from northerly Swan Lake Road to approximately 259 feet westerly of Arlington Avenue.

NOW, THEREFORE, BE IT RESOLVED, that it is the intention of this council to cause construction of said gas main, provided that further investigation demonstrates that such action be taken.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared, plans and specifications for said project and do those further things prescribed by Section 62 of the Charter.

Resolution 97-0356 was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved May 12, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Radix Corporation be and hereby is awarded a contract for furnishing annual maintenance for hand-held meter reading equipment and the annual software license for the water and gas department in accordance with specifications on its low specification bid of \$6,048, terms net 30, FOB destination, \$3,024 payable out of Water Fund 510, Dept./Agency 900, Organization 0515, Object 5404 and \$3,024 payable out of Gas Fund 520, Dept./Agency 900, Organization 0515, Object 5404.

Resolution 97-0402 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Dresser Rand Company be and hereby is awarded a contract for furnishing and delivering two steam turbines and gear sets for the Duluth Steam District #1 in accordance with specifications on its low specification bid of \$94,848, terms net, FOB Lufkin, TX, payable out of Steam District #1 Fund 540, Dept./Agency 920, Organization 1490, Object 5580.

Resolution 97-0411 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that United Piping, Inc., be and hereby is awarded a contract for gas main construction in various locations throughout the city for the water and gas department in accordance with specifications on its low specification bid of \$117,825, terms net 30, FOB job sites, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 97-0412 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

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Councilor Talarico moved to reconsider Resolution 97-0292, ordering the improvement of various streets and avenues pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth (1998 street improvement program), which motion was seconded for discussion.

Responding to Councilor Keenan, Mr. Nollenberger acknowledged that it is possible for the administration to resolve the questions identified earlier that relate to the three blocks which were amended out of the resolution and to resubmit them for council approval via a new resolution.

Councilor Talarico's motion to reconsider the resolution was carried upon a unanimous vote.

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

Virginia May stated that residents have been told by the engineering division that neighborhood meetings will be held with regard to design and other questions regarding the issues, which procedure did not occur for the 26th Avenue East improvement. She encouraged the council to approve this resolution, as long as the residents are assured that this process will occur. She further stated that the street was originally designed for horse and buggy and not present day traffic, therefore, she believes the historic value of the street belongs in the St. Louis County Heritage and Arts Center.

Responding to Councilor Keenan, Councilor Hogg stated he will not consider amending the resolution back to its original form.

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

Resolution 97-0292, as amended, was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth, the city council hereby orders the improvement, to city of Duluth standards, of those streets, avenues, and parkways set forth in Public Document No. 97-0512-17 on file with the office of the city clerk; that the costs of said improvement shall be paid from the street improvement fund (Fund 440) and that  $\frac{1}{4}$  or less of said costs be levied against the property specifically benefitted by said improvements.

BE IT FURTHER RESOLVED, that whenever residents who live in the vicinity of one of the street improvement projects desires to be actively involved in the design development for the street improvement, a design advisory committee consisting of interested residents and staffs from public works, planning and communications will be established to permit early involvement and public input on various street design elements including but not limited to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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street width, boulevard design and width, tree removal and replacement, driveways, curbing, traffic patterns and vehicular design speeds.

Resolution 97-0292, as amended, was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Approved May 12, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the city of Duluth agrees to act as the legal sponsor for the project set forth in the contamination cleanup grant program to be submitted on May 15, 1997, and the director of public works is hereby authorized to apply to the department of trade and economic development for funding of this project on behalf of the city of Duluth.

RESOLVED FURTHER, that the city of Duluth has the legal authority to apply for financial assistance, and the institutional, managerial, and financial capability to ensure adequate project administration.

RESOLVED FURTHER, that the sources and amounts of the local match identified in the application are committed to the project identified.

RESOLVED FURTHER, that the city of Duluth has not violated any federal, state or local laws pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

RESOLVED FURTHER, that upon approval of its application by the state, the city of Duluth is authorized to enter into an agreement with the state of Minnesota for the above referenced project, and the city of Duluth certifies that it will comply with all applicable laws and regulation as stated in all contract agreements.

RESOLVED FINALLY, that the director of public works is hereby authorized to execute such agreements as are necessary to implement the project on behalf of the applicant.

Resolution 97-0391 was unanimously adopted.

Approved May 12, 1997

YVONNE PRETTNER SOLON, Acting Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Neenah Foundry Company be and hereby is awarded a contract for furnishing and delivering 30 sets of sewer ring and cover assemblies for the sewer division in accordance with specifications on its low specification bid of \$8,261.65, terms net 30, FOB shipping point, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0570, Object 5227.

Resolution 97-0408 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

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Resolution 97-0409, by Councilor Talarico, awarding contract to Lakehead Electric Company for replacing luminaires and all other electrical materials and supplies at Lake Place Park in accordance with specifications on its low specification bid of \$12,682, was introduced for discussion.

Responding to Councilor Hales, Mr. Larson explained that the original light system was of poor quality and unmaintainable. He stated that the Minnesota department of transportation (Mn/DOT) paid for and installed the original system in concert with the construction of Interstate 35. He further stated that through negotiations, agreement has been reached that the city and Mn/DOT will each contribute 50 percent of the cost of the new lights, which are more expensive, but maintainable. He added that the original lights will be sold to reduce the city's cost.

Councilor Hales criticized city administration for prioritizing and spending an excessive amount on lighting for a public park while neighborhoods in her district are in need of alley lighting for the sake of safety. She suggested tabling the resolution until the administration supports a policy that will resolve the lighting issue of taxpaying residents in her district.

Councilor Bohlmann noted that past expenses for amenities and now this replacement of lighting for public places are mounting up. She moved to table the resolution for further discussion, which motion was seconded and failed upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg and President Hardesty -- 4

Nays: Councilors Keenan, Prettner Solon, Rapaich, Talarico and Wheeler -- 5

Councilor Hogg requested a response from Mr. Larson regarding alley lighting for the Central Hillside.

Responding to President Hardesty, Councilor Hogg stated that he is out of order requesting information about a topic that is not on the agenda; however, he said the response will make a difference in how he votes on the resolution.

Responding to Councilor Hogg, Mr. Nollenberger stated that he refuses to negotiate an unrelated issue and recommend one based upon trying to get the other one approved. He said that the issue of alley lighting is being studied and that he has not yet taken a position on it. Mr. Nollenberger added that when he gets the results of the study, he will review it and make a decision based upon the merits of that issue. He further stated he does not believe that holding one issue hostage to get another is good public policy.

President Hardesty stated she will not vote against the resolution because she believes good lighting in the park is important.

Councilors Bohlmann and Hales stated that the priorities of the city should be to make the taxpaying neighborhoods safer year round and not for the enjoyment of seasonal tourists.

Mr. Nollenberger explained that it is not a matter of prioritization between the two issues because Central Hillside neighborhood lighting, if approved, is to be funded through community development block grant funds.

Councilor Prettner Solon called the question, which motion was seconded and carried upon the following vote:

Yeas: Councilor Bohlmann, Hales, Keenan, Prettner Solon, Rapaich, Talarico, Wheeler and President Hardesty -- 8

Nays: Councilor Hogg -- 1

Resolution 97-0409 was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that Lakehead Electric Company be and hereby is awarded a contract for replacing luminaires and all other electrical materials and supplies at Lake Place Park for the public works department in accordance with specifications on its low specification bid of \$12,862, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2120, Object 5530.

Resolution 97-0409 was unanimously adopted.



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Approved May 12, 1997

GARY L. DOTY, Mayor

*(Resolution 97-0409 was reconsidered later in this meeting.)*

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Resolution 97-0413, by Councilor Talarico, awarding contract to Nels Nelson and Sons, Inc., for the Upper Fairmont 1997 street improvement program in accordance with specifications on its low specification bid of \$844,974.35, was introduced for discussion.

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

Alan Kehr requested the council to amend the street specifications of the contract from 28 feet to 24 feet. He said he has tried to get the specifications changed through the engineering department without success. Mr. Kehr stated that the project was discussed in March at a neighborhood coalition meeting, his request for a narrower street came from the minority. He said that at the end of the meeting, the question of the width was inconclusive and it was decided that he would survey the neighborhood, which he did and resulted in 80 percent of the residents wishing to have the 24 foot width. Mr. Kehr stated that when the survey was taken to engineering, he was told that it was assumed after the March meeting that the majority favored the 28 foot width, thus the reason for 28 foot design and that it was too late to make changes. The disadvantages of a wider street, he said, are that the boulevards will only be five feet wide which make shoveling of snow off sidewalks difficult once plows have plowed the additional snow from the streets onto them; when trees are planted and growing, the root system will heave up the sidewalks with narrower boulevards; construction costs for the street will be higher because a narrower street will not require sidewalks to be replaced. He said he believes narrower streets also portray a friendlier neighborhood.

Responding to Councilor Wheeler, Mr. Larson stated that neighborhood meetings would have been conducted last fall with the engineering design work taking place in the winter, and that street width decisions would have been made before March. He noted that city policy is that street widths can vary between 24 feet and 28 feet at the decision of the neighborhood. He added that it is not too late to change the street width; however, it would have been much better to have had the information in the fall when the planning was taking place.

Responding to Councilor Hogg, Mr. Nollenberger suggested tabling the resolution for one week to get a full report of what happened at the meetings and what the alternatives are at this time.

Councilor Hogg moved to table the resolution for one week, which motion was seconded and carried upon a unanimous vote.

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BY COUNCILOR TALARICO:

RESOLVED, that Hallett Dock Company be and hereby is awarded a contract for furnishing and delivering approximately 2,000 tons of Class 5 limestone for the street maintenance division in accordance with specifications on its low specification bid of \$12,482.55, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5224.

Resolution 97-0414 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Hardesty and Hanover, for the sum of not to exceed \$2,500, from P.I. fund (to be reimbursed by municipal state aid fund), for providing certain engineering services to the city of Duluth in connection with Duluth Aerial Lift Bridge counterweight sheave crack repair, said services and payment therefor to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 97-0512-26.

Resolution 97-0422 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that Uniform Connection be and hereby is awarded a contract for furnishing and delivering police uniforms for the police department in accordance with specifications on its low specification bid of \$14,389.60, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1620, Object 5218.

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

Resolution 97-0360 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Stratus Computer, Inc., be and hereby is awarded a contract for furnishing and delivering computer disk drives and ports for the police department in accordance with specifications on its low specification bid of \$15,270, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 2439, Object 5580.

Resolution 97-0401 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that Minnesota department of public safety be and hereby is awarded a contract for utilization of the Criminal Justice Data Network service for the police department in accordance with its fee structure at an annual cost of \$7,320, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5319.

Resolution 97-0403 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Orchard Knoll Kennel be and hereby is awarded a contract for furnishing a trained USPCA police dog for the police department in accordance with specifications on

its low specification bid of \$6,922.50, terms net 30, FOB shipping point, payable out of General Fund 100, Dept./Agency 200, Organization 1620, Object 5441.

Resolution 97-0416 was unanimously adopted.

Approved May 12, 1997

GARY L. DOTY, Mayor

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Councilor Prettner Solon moved to reconsider Resolution 97-0409, awarding contract to Lakehead Electric Company for replacing luminaires and all other electrical materials and supplies at Lake Place Park in accordance with specifications on its low specification bid of \$12,682, to allow for another vote for councilors who were not clear on the motion for approval, which motion was seconded and unanimously carried.

Resolution 97-0409 was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that Lakehead Electric Company be and hereby is awarded a contract for replacing luminaires and all other electrical materials and supplies at Lake Place Park for the public works department in accordance with specifications on its low specification bid of \$12,862, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2120, Object 5530.

Resolution 97-0409 was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved May 12, 1997

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES  
ORDINANCE RECONSIDERED**

BY COUNCILOR TALARICO

97-005 (9330) - AN ORDINANCE PERTAINING TO MUNICIPAL GOLF COURSES; AMENDING ALCOHOLIC BEVERAGE REGULATIONS AND ESTABLISHING MINIMUM ATTIRE REGULATIONS; AMENDING SECTIONS 35-12 AND 35-25, DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Talarico moved to reconsider the ordinance, which motion was seconded and carried upon a unanimous vote.

Councilor Talarico moved to delete paragraph (p) pertaining to minimum attire regulations, which motion was seconded and carried upon a unanimous vote.

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

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

Nays: None -- 0

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The following entitled ordinances were read for the first time:  
BY COUNCILOR RAPAICH

97-007- AN ORDINANCE AMENDING SECTIONS 8 AND 31 OF THE DULUTH CITY CHARTER TO AUTHORIZE THE CITY COUNCIL TO DELEGATE TO ADMINISTRATIVE OFFICERS THE POWER TO APPROVE CONTRACTS.

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BY COUNCILOR PRETTNER SOLON

97-008 - AN ORDINANCE DESIGNATING THE FORMER CITY HALL AS A DULUTH HERITAGE PRESERVATION LANDMARK.

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BY COUNCILOR PRETTNER SOLON

97-009 - AN ORDINANCE DESIGNATING THE FORMER CITY POLICE STATION AS A DULUTH HERITAGE PRESERVATION LANDMARK.

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The meeting was adjourned at 11:00 p.m.

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

- - -

**ORDINANCE NO. 9330**

BY COUNCILOR TALARICO:

AN ORDINANCE PERTAINING TO MUNICIPAL GOLF COURSES;  
AMENDING ALCOHOLIC BEVERAGE REGULATIONS AND  
ESTABLISHING MINIMUM ATTIRE REGULATIONS; AMENDING  
SECTIONS 35-12 AND 35-25, DULUTH CITY CODE, 1959, AS  
AMENDED.

The city of Duluth does ordain:

Section 1. That Section 35-12 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 35-12. Definitions.

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

Alcoholic beverages. The term shall mean intoxicating liquor and 3.2 percent malt liquor, but such term shall not include any beverage containing less than 1/2 of one percent of alcohol by volume, or so-called soft drinks.

Clubhouse. A building on the golf course used as the operational headquarters, golf shop, lunch room, locker rooms and lavatories and the grounds and benches immediately adjacent thereto.

Golf course. Any golf links owned and operated by the city for the playing of the game of golf, the practice thereof and for golf exhibitions.

Intoxicating liquor. Ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight.

3.2 percent malt liquor. Any liquid potable as a beverage, containing not more than 3-2/10 percent of alcohol by weight, nor less than 1/2 of one percent of alcohol by volume.

Vehicle. Every device in, upon or by which any person or property is or may be transported or drawn, whether said device is propelled on wheels, skids, skis, or is animal drawn or self-propelled. Exception is made herein for golf carts and

vehicles owned or in the service of the city of Duluth or owned and in use by individual players during the course of the game.

Section 2. That Section 35-25 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 35-25. Restrictions as to use of golf course.

No person on a golf course shall:

(a) Post or display any sign, banner or advertisement, write upon, cut, mutilate, deface or otherwise, disturb any building, bench, ornament, flowers, trees or other property upon such golf course. No person shall commit any depredation in or upon any golf course;

(b) Sell or beg upon such golf course without the authority of the city council;

(c) Permit or allow any dog or other domestic animal in or upon any golf course;

(d) Hunt for, take or carry away from any such golf course or from any place adjacent to such golf course any golf ball without the permission of the golf course supervisor of such golf course or other authorized recreation department employee, exception is hereby provided for the owner of a lost golf ball;

(e) Attempt to sell any golf ball or other golf supplies or accessories in, on or about any such golf course, or public property adjacent thereto except those persons duly licensed to do so by the department of public recreation under the authority of the city council;

(f) Remain or stand nearer than 100 feet to the fairway of any such golf course during the progress of any golf game upon such golf course. This Section shall not apply to persons actually taking part in any golf game, nor to official caddies acting under the authority of the golf course supervisor or other person in charge of the course, nor to persons attending any exhibition or other special event or tournament under authority of the golf course supervisor or the municipal golf division;

(g) Hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any wild animal, reptile or bird on or adjacent to any golf course;

(h) Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream or other body of water in or adjacent to any golf course in the city any substance, matter or thing, liquid or solid, which will or may result in the pollution of such waters. Nor shall any person bathe, swim or wade in such waters, other than to retrieve his golf ball;

(i) Ride, drive or operate any vehicle on the golf courses of the city, including the service roads on such golf courses, except to perform work ordered by the department of public recreation or in the course of use by individual players. Exception is hereby made when the manager of the municipal golf division designates areas for temporary or seasonal operation of vehicles;

(j) Park any vehicle in other than established or designated parking area. Such use shall be in accordance with the posted directions thereat and with the instructions of the golf course supervisor or other authorized recreation department employee. Failure to obey the regulations of this paragraph shall subject the violator or the owner of the vehicle wrongfully parked to the expense of removing such vehicle in addition to any other penalty provided in this Code;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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(k) Use, consume or have in possession any intoxicating liquor on any golf course in the city. 3.2 percent malt liquor sold on the premises under the authority of the city council may be consumed on the golf course or in the club house;

(l) Enter upon or use the golf course or the buildings thereon during times other than the regular golf season as a place of recreation or other use, when ordered by the golf course supervisor or other authorized municipal golf division employee to desist therefrom;

(m) Expose or offer for sale any article or thing or station or place any stand, cart or vehicle for the transportation, sale or display of any article or thing on such golf course. Exception is hereby made as to any regularly licensed concessionaire acting by and under authority of the city council to sell on such golf course;

(n) No person under the age of ten years shall enter upon the golf course during the golf season for any purpose, unless accompanied by an adult person, and then only by permission of the golf course supervisor of the golf course;

(o) Conduct or take part in any gambling games on any golf course.

In addition to any other penalties provided in this Code, a person violating any of the provisions of this Section shall pay the cost of repairs or replacement resulting from such violation.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 22, 1997 )

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

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

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 12, 1997  
Approved May 12, 1997  
GARY L. DOTY, Mayor



**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, May, 19, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hogg, Keenan, Prettner Solon, Wheeler and President Hardesty -- 7

Absent: Councilors Rapaich and Talarico -- 2

- - -

**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0519-01 The following submitting communications pertaining to the proposed street improvements in Upper Fairmont (97-0413); (a) Alan Kehr; (b) Grant Odegard, Chairman of West Duluth neighborhood coalition. -- Received

- - -

**RESOLUTION TABLED**

Councilor Talarico moved to remove Resolution 97-0413, awarding contract to Nels Nelson and Sons, Inc., the Upper Fairmont 1997 street improvement program in accordance with specifications on its low specification bid of \$844,974.35, from the table, which motion was seconded and unanimously carried.

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

Allan Kehr reviewed concerns he raised at the May 12, 1997, meeting.

Grant Odegard, Fay Biebeau and Mercedes Demo supported going forward with the contract as awarded with the 28 foot width.

Resolution 97-0413 was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of the upper Fairmont 1997 street improvement program for the engineering division in accordance with specifications on its low specification bid of \$844,974.35, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9702, Object 5530. The normally assessable portion of the project be paid from the 1997 Federal Program Fund 262, Project Account No. 6007 in an amount not to exceed \$310,000. The project name is West Duluth streets and sewers.

Resolution 97-0413 was unanimously adopted.

Approved May 19, 1997

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 7:50 p.m.

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

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Tuesday, May 27, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of council meetings held on November 7, 12, 21 and 25, 1996, were unanimously approved.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0527-01 Bresnan Communications Company, by Johnson Wilson Constructors, Inc., et al. (nine signatures), submitting petition to reclassify from R-1-b to C-5 the southerly ½ of Lots 12, 11 and parts of Lots 10, 9, 8, 7, 6 and 5 south of Central Highway, Lots 13-17, Block 1, Clearview Park. -- Assessor

97-0527-02 Anthony and Tracy A. Grandi submitting petition for vacation of alley between Lots 25 and 26, Block 8, Ironton Fourth Division. -- Assessor

97-0527-03 Norman Hewitt, et al. (seven signatures) submitting petition to construct permanent improved alley in Second Alley from 14th to 15th Avenues East. -- Assessor

97-0527-04 Reichert Properties, Inc., et al. (three signatures), submitting petition to vacate a portion of Washington Avenue southerly of the southerly right-of-way line of East First Street extended and easterly of the easterly right-of-way line of Seventh Avenue East extended. -- Assessor

97-0527-14 Sue Lyons submitting letter (supported by 22 signatures) pertaining to the special use permit application for property located at 2140 Woodland Avenue (97-0462R). -- Received

97-0527-40 Barbara A. Savonen and David Friske submitting letter pertaining to proposed street improvement in the 4800 block of Jay Street (97-0484R). -- Received

97-0527-38 Richard J. Wilson submitting letter pertaining to proposed street improvement on First Street and 25th Avenue East (97-0484R). -- Received

97-0527-05 The following submitting letters pertaining to the living wage issue (97-0338R): (a) James Allan Adams; (b) Mike Blustin; (c) Dick Clark; (d) Amy Hill; (e) Gladys K. Johnson. -- Received

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**REPORTS OF OFFICERS**

97-0527-06 Assessor submitting letter of sufficiency regarding petition for construction of a permanent improved alley in Second Alley from 14th to 15th Avenues East. -- Received

97-0527-07 Building official submitting appeal of the board of zoning appeals' denial of a variance to allow a nonconforming use of a building (owner-occupied three apartment structure) in a zone (R-2) restricted to single and two family homes and reduce the required space limits to accommodate existing property size of 50 feet x 125 feet (6,250 square feet) on property located at 911 North 56th Avenue West (Jakubek). -- Committee 2 (planning)

97-0527-08 Clerk submitting applications to the Minnesota gambling control board for exemption from lawful gambling licenses (raffles) from: (a) Holy Family Parish Church; (b) Temple Israel. -- Received

97-0527-09 Engineering division submitting May 1, 1997, project status report. -- Received

97-0527-13 Parks and recreation department director submitting Lake Superior zoological society minutes of March 27, 1997, meeting. -- Received

- - -

**REPORTS OF BOARDS AND COMMISSIONS**

- 97-0527-10 Lawful gambling commission minutes of April 8, 1997, meeting. -- Received
- 97-0527-12 Sanitary sewer board of WLSSD minutes of May 5, 1997, meeting. -- Received
- 97-0527-11 Special assessment board minutes of April 15, 1997, meeting. -- Received

- - -

**OPPORTUNITY FOR CITIZENS TO BE HEARD**

Michael Conlan, representing the Greater Downtown Council, commended city staff for their efforts to keep merchants informed and traffic flowing to businesses located on Michigan Street during the large scale reconstruction occurring at this time.

- - -

William Sipilla expressed his, as well as the neighborhood's, concern that the improvement of 20th Avenue East between Jefferson Street and Second Street requires removal of 28 of the 30 maple trees on the street.

Responding to councilors Wheeler, Keenan and Hogg, Richard Larson, public works director, stated that residents were made aware of the tree cutting issue at a neighborhood meeting, and that regardless of the width chosen, the trees need to be removed because of the collapsed condition of the storm sewer.

Councilors Keenan and Wheeler urged the administration to host another neighborhood meeting before construction begins to address the issue of alternatives that will not cause the removal of so many trees.

- - -

At this time, 8:10 p.m., President Hardesty announced the public hearing regarding an ordinance amending sections 8 and 31 of the Duluth City Charter to authorize the city council to delegate to administrative officers the power to approve contracts would begin (Public Document No. 97-0527-39).

- - -

At this time, 8:15 p.m., the public hearing was adjourned and the regular order of business was resumed.

- - -

President Hardesty moved to suspend the rules to consider Ordinance 97-007 at this time, which motion was seconded and unanimously carried.

BY COUNCILOR RAPAICH

97-007 - AN ORDINANCE AMENDING SECTIONS 8 AND 31 OF THE DULUTH CITY CHARTER TO AUTHORIZE THE CITY COUNCIL TO DELEGATE TO ADMINISTRATIVE OFFICERS THE POWER TO APPROVE CONTRACTS.

Councilor Hogg stated that he supports the Charter amendment because the advice and counsel that has been received from the Charter commission makes sense.

Councilor Bohlmann opposed the proposed ordinance, stating that if it is adopted, the council's decision making responsibilities will be abdicated to the administration, leaving the citizens of Duluth without representation. She noted that the ordinance must have nine votes in favor to pass and that she will vote against it. Councilor Bohlmann added that if this is what the citizens want, then it should be voted on by referendum.

Councilor Wheeler disagreed that the council wants to shirk it's responsibility and added that it has worked very hard to try to be accountable. He stated that Duluth's form of government and

inflation have changed since the original Charter was written 50 years ago, and that the time to address this issue come. Councilor Wheeler said he believes this will alleviate some of the detail that is extraneous to the council and allow more time to focus on the larger issues that require more time.

Councilor Rapaich moved to adopt the ordinance, which motion was seconded and failed upon the following vote (Public Document No. 97-0527-37):

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

Nays: Councilor Bohlmann -- 1

- - -

### **RESOLUTIONS TABLED**

Councilor Prettner Solon moved to remove Resolution 97-0396, amending agreement with Avant-Garde, Inc., authorizing access to Skyline Parkway from lots in Boulevard Terrace, First Addition, from the table, which motion was seconded and unanimously carried.

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

Sibyl Norris stated that with regard to this issue, she is concerned about safety. She further requested the council to amend the agreement to limit building height to 15 feet and construction of only one residential structure per lot.

Responding to Councilor Hogg, Ms. Norris stated she was not notified of the planning commission meeting with regard to this issue.

Councilor Prettner Solon stated that it is her belief that Mr. Hovland has personally agreed to the conditions requested by Ms. Norris because they cannot be required by the city council.

City Attorney Dinan stated that the conditions could only be included in the agreement with the consent of the property owner.

Councilor Talarico noted that during the committee meeting Mr. Hovland indicated he had voluntarily agreed to the lower height restrictions, etc., and if he still agrees to that, there is no reason why it cannot be included in the agreement to resolve the issue for both parties.

George Hovland stated that he is willing to commit to the self imposed restriction of a 15 foot height limitation. With regard to limiting construction to one residence per lot, he noted that the zoning allows for two family dwellings and, although he would never consider putting two single family homes on a lot, he would not want restrictions imposed that will prevent him from building a duplex, which could be very attractive.

Resolution 97-0396 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, at the time of the platting of Boulevard Terrace, First Addition, the developer thereof entered into an agreement, filed in the office of the county registrar of titles as Document No. 440,432, prohibiting direct access from the lots in said plat to Skyline Parkway except from a service roadway shown on said plat; and

WHEREAS, subsequently Lot 1 of Boulevard Terrace, First Addition was conveyed to Julie Savalas; and

WHEREAS, because of changed circumstances and conditions regarding said property, the city council, upon recommendation of the planning commission, approved vacation of said service roadway pursuant to Resolution No. 95-0656; and

WHEREAS, it is necessary to amend the above agreement to eliminate the contractual limitation imposed thereby in order to make the above vacation effective.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into the amendment to agreement with Avant-Garde, Inc., and Julie Savalas, a copy of

which is on file in the office of the city clerk as Public Document No. 97-0527-16, amending that agreement on file in the office of the county recorder for St. Louis County, Minnesota, as Document No. 440,432 by removing the prohibition to direct access from Lots 1 through 5, Boulevard Terrace, First Addition to Skyline Parkway.

Resolution 97-0396 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

- - -

Councilor Keenan moved to remove Resolution 97-0415, by Councilor Bohlmann, approving new specifications for the civil service classification of assistant golf course superintendent, from the table, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Councilor Keenan stated that this resolution needs to be acted on now so that the opening of the golf courses for the season will not be delayed.

Councilor Bohlmann stated that she has been out of town and has not had an opportunity to study the additional information provided regarding duties in order for her to determine whether the creation of this new position is justified.

Councilor Talarico suggested that if the resolution is to be tabled it should only be for one week and considered at a special council meeting next week because the golf season is here and the position needs to be filled quickly.

Councilor Keenan stated that this new position has been recommended by the administration, that the council does not have the power to scrutinize whether this position is justified or not, and that the council should either vote it up or down and not delay it further.

Councilor Talarico moved to table the resolution for one week, which motion was seconded and failed upon the following vote:

Yeas: Councilors Bohlmann, Hogg and Talarico -- 3

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

Resolution 97-0415 was adopted as follows:

BY COUNCILOR KEENAN (introduced by Councilor Bohlmann):

RESOLVED, that the specifications for the new civil service classification of assistant golf course superintendent, which were approved by the civil service board on April 7, 1997, and which are filed with the city clerk as Public Document No. 97-0527-15, are approved. This classification will be represented by the basic unit and compensated at Range 31, \$2,746 to \$3,265 per month (1996 rates).

Resolution 97-0415 was adopted upon the following vote:

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

Nays: Councilors Bohlmann and Hogg -- 2

Approved May 27, 1997

GARY L. DOTY, Mayor

- - -

### **MOTIONS AND RESOLUTIONS**

BY COUNCILOR WHEELER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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RESOLVED, that the assessment rolls levied to defray the assessable portions of the following are hereby confirmed:

1996 sidewalk program (Contract No. 5289) (assessable amount: \$78,924.76);

Demolition assessment (Contract No. 5301) (assessable amount: \$8,972).

Resolution 97-0436 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0483, by Councilor Wheeler, authorizing execution of an agreement with the firm of Public Policy Partners, L.L.C., d/b/a Durenberger/Foote to provide Washington legislative services to the city, was introduced for discussion.

Councilor Prettner Solon stated she cannot support this agreement because of past performance. She said she has not been satisfied with the work that has been provided by the firm in that the council has not been informed about programs of interest to cities in general. Councilor Prettner Solon stated the firm has provided information about possible grant money for Lake Superior Center, but she added that the grant application was submitted before this firm was retained. She expressed concern that this firm will assume the role to lobby on behalf of the casino because there is no expertise or experience in that area and it is the largest and most costly portion of the contract.

Councilor Keenan stated support and confidence that this firm will represent the city well with regard to Lake Superior Center as well as Indian gaming issues.

Councilor Hogg stated that he believes this firm is the best one to represent the city with regard to the Lake Superior Center issue, but expressed concerned that the firm has been lax in its reporting to the city. With regard to protecting the city's interest in the casino and Indian gaming issue, which provides direct economic benefit to the city and also contributes to the general fund via percentage of profits, which is critical to the city budget, Councilor Hogg stated he has seen nothing to convince him that this firm has any expertise. He agreed with Councilor Prettner Solon that the previous firm retained by the city did a good job in its representation on this issue. He supported splitting the responsibilities as has been done in the past and said he cannot support this contract as written.

President Hardesty stated that she was part of the team that went to Washington, D.C., to interview lobbying firms who would work on the city's behalf. She said that she could have supported many of the people they interviewed, but she believes that this is the single best firm at this time and that the city should continue with them for the duration of the contract. President Hardesty stated the firm does have someone on board who has experience working with casino issues. Responding to Councilor Hogg's suggestion on splitting the responsibilities among two firms, President Hardesty said the team attempted to make that happen but it was not possible, so she believes this is the best choice for the city now. She noted that the council should be more directive on what kinds of information they would like to see from the lobbying firm.

Councilor Talarico agreed with councilors Hogg and Prettner Solon and said that, besides the issues they raised, in the few days that councilors were in Washington, D.C., this firm did not attempt to work with councilors while they were out there. He stated he has little faith in a company that is unwilling to work with councilors. He said he cannot support the resolution.

Councilor Bohlmann stated that in the past federal lobbyists have come to Duluth to make presentations and were always available to answer questions. She stated that this firm has been unusually inconsiderate by not keeping the council informed. She questioned why Lake

Superior Center is not required to pay its own lobbying costs. She said she will not support the resolution.

Councilor Wheeler agreed that reports have not been submitted in a timely manner in the past, but he believes that this firm can do the work and suggested making it a requirement in the contract.

Councilor Prettner Solon stated that these issues have been raised with the firm in the past and the reports have not improved in quality but have basically been taken from the League of Minnesota Cities and there is not much new that ever comes to the council. She said she does not believe there is any lobbying done on any of the city's issues other than Lake Superior Center and the casino. She said she has nothing against the firm, that it is reputable and does a fine job in the areas that it represents, but she does not believe it fits the city's needs entirely.

Administrative Assistant Nollenberger clarified that 50 percent of the cost of the contract is to be reimbursed by casino proceeds.

Mayor Doty stated that a number of excellent firms were interviewed to represent Duluth, but the reason this firm was chosen was because it is believed it can best represent the city in all areas. He further stated that Mr. Durenberger intends to subcontract with individual firms in the event more expertise on individual issues is necessary.

Responding to Councilor Hales, Councilor Keenan stated that if the council wants a presentation before approving the contract, it will have to pay for Mr. Durenberger's expenses to come to Duluth.

Councilor Hogg called the question, which motion was seconded and carried upon a unanimous vote.

Resolution 97-0483 was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the firm of Public Policy Partners, L.L.C., d/b/a Durenberger/Foote, to provide the city with Washington legislative services for a period of one year commencing June 1, 1997, which agreement is on file in the office of the city clerk as Public Document No. 97-0527-17, at a cost to the city of \$69,600 plus certain expenses, which shall be payable from the General Fund 015-1510-5312.

Resolution 97-0483 was adopted upon the following vote:

Yeas: Councilors Hales, Keenan, Rapaich, Wheeler and President Hardesty -- 5

Nays: Councilors Bohlmann, Hogg, Prettner Solon and Talarico -- 4

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

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

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Licensee                      Gambling Site    Date Application Filed

Lake Superior Steelhead      Mr. D's              April 15, 1997  
Association                      Club Saratoga      April 15, 1997

Resolution 97-0435 was unanimously adopted.  
Approved May 27, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that United Electric Supply be and hereby is awarded a contract for furnishing and delivering approximately 9,000 fluorescent, incandescent, high intensity discharge lamps and auto sealed beams for the various departments/divisions in accordance with specifications on its low specification bid of \$12,200, terms net 30, FOB destination, payable out of various funds, dept./agency various, organization various, object various.

Resolution 97-0441 was unanimously adopted.  
Approved May 27, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Ruffridge Johnson Equipment Company be and hereby is awarded a contract for furnishing and delivering two Rosco MTA-3 street flushers for the fleet services in accordance with specifications on its low specification bid of \$86,022, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2006, Object V614.

Resolution 97-0447 was unanimously adopted.  
Approved May 27, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Eggebrecht Chevrolet be and hereby is awarded a contract for furnishing and delivering two Chevrolet 39,000 GVW cab and chassis for the fleet services in accordance with specifications on its low specification bid of \$105,314, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2006, Object V614.

Resolution 97-0469 was unanimously adopted.  
Approved May 27, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Resolution 97-0167 to Ray Dahl Construction for furnishing general construction work to city clerk's office relocation and conference room construction work in business development, be amended to increase the amount by \$3,789.71 for a new total of \$10,739.71, payable out of General Fund 100, Dept./Agency 700, Organization 1418, Object I701.

Resolution 97-0457 was unanimously adopted.  
Approved May 27, 1997  
GARY L. DOTY, Mayor



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Resolution 97-0116 to Little Falls Machine, Inc., for furnishing repair service and repair parts for Falls plows and wings, be amended to increase the amount by \$3,000 for a new total of \$9,000, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 97-0470 was unanimously adopted.  
Approved May 27, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that C.L.S.I. be and hereby is awarded a contract for furnishing and delivering 23 street light poles and accessories for the traffic operations division in accordance with specifications on its low specification bid of \$34,468.73, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2107, Object E740.

Resolution 97-0477 was unanimously adopted.  
Approved May 27, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor licenses, for the period ending August 31, 1997, subject to departmental approvals:

Grandma's Sport Bar & Grill, Inc. (Grandma's Sport Garden), 405-425 Lake Avenue South;  
Blackwoods on the Lake, Inc. (Blackwoods on the Lake), 2525 London Road;  
PDMM (Green Mill), 340 South Lake Avenue.

Resolution 97-0486 was unanimously adopted.  
Approved May 27, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals:

Western Softball Team (Early Bird Softball Tournament), Wheeler Field, for May 31 and June 1, 1997, with Jerry Hill, manager.

Resolution 97-0487 was unanimously adopted.  
Approved May 27, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license for the period beginning May 1, 1997, and ending April 30, 1998, subject to departmental approvals and the payment of sales and property taxes:

Chris Waltz (Diamond Billiards), 311 West First Street.

Resolution 97-0494 was unanimously adopted.  
Approved May 27, 1997  
GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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- - -

BY COUNCILOR BOHLMANN:

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

HERITAGE PRESERVATION COMMISSION

Warren Czaia and Marguerite A. Mason for terms expiring May 31, 2000.

Resolution 97-0428 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

LIBRARY BOARD

Mavis Whiteman for a term expiring June 1, 2002.

Resolution 97-0429 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

TECHNICAL DESIGN ADVISORY COMMITTEE

Robert Baeumler for a term expiring May 31, 2000.

Resolution 97-0430 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Larry B. Sundberg for a term expiring March 1, 2000.

Resolution 97-0431 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

LAWFUL GAMBLING COMMISSION

William A. Carlson for a term expiring April 30, 2000.

Resolution 97-0432 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Denice Johnson (Lincoln Park/West End), for a term expiring March 1, 1999, replacing Daniel Williams who resigned.

Resolution 97-0458 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the Salvation Army family transitional housing project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0527-18, with the Salvation Army of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$33,000, payable out of the 1997 Federal Program Fund 262 - community development - Salvation Army family transitional housing project Account No. 6027.

Resolution 97-0426 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the women's transitional housing coalition - operational project pursuant to Resolution 96-0924(b).

NOW THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0527-19, with the Women's Transitional Housing Coalition of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$38,000, payable out of the 1997 Federal Program Fund 262 - community development women's transitional housing - Operational Account No. 6026.

Resolution 97-0427 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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Resolution 97-0439, by Councilor Prettner Solon, authorizing HOME CHDO operating grant agreements with Women's Transitional Housing Coalition, Inc., in an amount not to exceed \$13,426 and with Life House, Inc., in an amount not to exceed \$12,873, was introduced for discussion.

Councilor Hales stated that she requested information related to development expertise because it appears to her that Women's Transitional Housing Coalition, Inc., is changing its focus from supplying transitional housing for women to providing housing development assistance to newly emerging groups. She asked if the council wants to support housing in this manner and urged that the issue be included in future policy setting discussions. Councilor Hales stated she cannot support expansion such as this and she does not support Life House so she will oppose the resolution.

Resolution 97-0439 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into HOME CHDO operating grant agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 97-0527-20(a), with Women's Transitional Housing Coalition, Inc., in an amount not to exceed \$13,426, payable from Fund 260, Agency 020, Organization 2652, Object h009.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into a HOME CHDO operating grant agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 97-0527-20(b), with Life House, Inc., in an amount not to exceed \$12,873, payable from Fund 260, Agency 020, Organization 2652, Object h009.

Resolution 97-0439 was adopted upon the following vote:

Yeas: Councilors Hogg, Keenan, Prettnner Solon, Rapaich, Talarico, Wheeler and President Hardesty -- 7

Nays: Councilors Bohlmann and Hales -- 2

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into a HOME program administration agreement for tenant based rental assistance, substantially in the form of that on file in the office of the city clerk as Public Document No. 97-0527-21, with housing and redevelopment authority of Duluth, Minnesota (HRA), in an amount not to exceed \$147,700, payable from the Federal Home Program Fund 260.

Resolution 97-0450 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into the agreement filed as Public Document No. 97-0527-22, which agreement will provide for the Duluth Entertainment Convention Center to manage events at the Bayfront festival site for 1997, at a cost of \$15,000, payable from Fund 100, Org. 500, Agency 1950, Object 5319.

Resolution 97-0451 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to acquire by free conveyance from Independent School District #709 property described below in St. Louis County, Minnesota, for the public purpose of neighborhood park and recreation use (Cobb School playground):

All of Block 5, Woodland Park Second Division, First Rearrangement, including all of vacated Rendle Avenue (formerly Shakopee Avenue) between Faribault Street and Redwing Street; also including that portion of vacated Redwing Street adjacent to Block 5, Woodland Park Second Division, First Rearrangement.

Resolution 97-0452 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Prospect Avenue (27th Avenue East) between Norton Street and Woodland Avenue/St. Marie Street and legally described as: Prospect Avenue/27th Avenue East adjacent to Block 7, Motorline Division; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its May 13, 1997, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Prospect Avenue (27th Avenue East) between Norton Street and Woodland Avenue/St. Marie Street, as more particularly described on Public Document No. 97-0527-23.

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

Resolution 97-0460 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of portions of Greysolon Road, east of 21st Avenue East to 30 feet east of 22nd Avenue East, and 22nd Avenue East north of Jefferson Street to Greysolon Road, legally described as: Greysolon Road from the easterly right-of-way line of 21st Avenue East to 30 feet east of the easterly right-of-way line of 22nd Avenue East, said right-of-way being adjacent to Blocks 48 and 52 and the westerly 30 feet of Lot 16, Block 51, Endion Division and the westerly 30 feet of Greysolon Rearrangement of Block 49 of Endion Division of Duluth, and 22nd Avenue East from the northerly right-of-way line of Jefferson Street to the northerly right-of-way line of Greysolon Road, said right-of-way being adjacent to Block 48, Endion Division of Duluth and Greysolon Rearrangement of Block 49 of Endion Division of Duluth; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its May 13, 1997, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Greysolon Road described above, subject to the retention of the full right-of-way as a utility easement, and 22nd Avenue East described above, subject to the retention of a 20 foot wide sewer easement, the center line of which is running east/west, located 150 feet north of the north right-of-way line of Jefferson Street and 150 feet south of the south right-of-way line of Greysolon Road between Block 48 Endion Division and Greysolon Rearrangement of Block

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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49 of Endion Division of Duluth as more particularly described on Public Document No. 97-0527-24.

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

Resolution 97-0461 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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Resolution 97-0462, by Councilor Prettner Solon, granting a special use permit to Suzanne Vedder for a residential care facility on property located at 2140 Woodland Avenue, was introduced for discussion.

Councilor Prettner Solon moved to table the resolution until a committee meeting can be held on the issue, which motion was seconded and unanimously carried.

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into a construction agreement with BNSF and DEDA, substantially in the form of that on file in the office of the city clerk as Public Document No. 97-0527-25(a), relating to the construction upon railroad property of the extension of 67th Avenue West between Fremont Street and Grand Avenue, costs of construction to be borne by DEDA.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into a letter agreement for easements with BNSF, substantially in the form of that on file in the office of the city clerk as Public Document No. 97-0527-25(b), relating to the easement over railroad property at the extension of 67th Avenue West, the fee for said easement to be borne by DEDA.

Resolution 97-0463 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into a consent to assignment with DEDA and BNSF, substantially in the form of that on file in the office of the city clerk as Public Document No. 97-0527-26, relating to pipeline licenses for a water line pipe and a storm sewer pipe, said licenses substantially in the form of the copy attached to Public Document No. 97-0527-26, relating to the Fremont Point Phase III housing development, BNSF's fee for processing said assignment to be borne by DEDA. The consent to assignment is to be effective upon substantial completion of 67th Avenue West as determined by city engineering staff.

Resolution 97-0467 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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Resolution 97-0465, by Councilor Prettner Solon, authorizing emergency shelter grant program agreements with emergency and transitional housing providers in an amount totaling \$96,000, was introduced for discussion.

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Councilor Hales stated that these agreements require grantees to file drug alcohol policies with the city, which, she understands, does not need to be done until after the agreements are signed. She added, however, that these grantees have had emergency shelter grant program agreements in the past and she questioned why past policies are not on file with the city. She said she cannot support this program if the city does not require the grantees to submit policies as agreed to.

Responding to Councilor Hogg, Mr. Nollenberger stated that he was not aware that drug and alcohol policies are not on file with the city and he suggested that if councilors want more information, they should table the resolution for one week.

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

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

Nays: Councilors Prettner Solon, Rapaich, Talarico, Wheeler and President Hardesty -- 5

Resolution 97-0465 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into agreements, substantially in the form of that on file in the office of the city clerk as Public Document No. 97-0527-27, with the below named organizations for the provision of services under the emergency shelter grant program in amounts as hereinafter set forth, said funds to be payable from Fund 262, Agency 620, Object 5434.

Central Hillside United Ministry (overnight shelter)	\$15,515
Central Hillside United Ministry (drop-in center)	9,600
Women's Transitional Housing	14,750
Life House, Inc.	10,080
The Salvation Army	16,210
Women's Coalition	11,100
Human Development Center	11,840
American Indian Community Housing Organization	<u>6,905</u>
	\$96,000

Resolution 97-0465 was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved May 27, 1997

GARY L. DOTY, Mayor

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Resolution 97-0478, by Councilor Prettner Solon, supporting the federal low income housing tax credit program, was introduced for discussion.

Councilor Hales stated she does not see a need for city involvement in this program because there are no new development projects proposed that could utilize it. She stated that the city chose to extend this program last year, but no one in the city of Duluth is involved in it this year. Councilor Hales suggested that if the city did a study on housing projects that use this type of financing, it would determine that they are neither beneficial or good for the neighborhoods or

the community. She urged more policy discussions to determine if the council should continue to support such programs that damage the city's neighborhoods.

Councilor Prettner Solon stated that in past years the city has made good use of low income housing tax credits and has been eligible for those that have come around for the second time when surpluses have been available. She noted that all housing development won't occur in Duluth, but the program should continue to be available and she supports other communities having them available. She added that this is the last remaining tool the city has for this type of housing.

Councilor Talarico stated that this program gives developers the opportunity to offer good quality housing at an affordable price to segments of Duluth's residents who are at great risk.

Resolution 97-0478 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the federal low income housing tax credit (LIHTC) program remains the only federal rental housing production tool available; and

WHEREAS, the United States general accounting office recently concluded in a comprehensive study requested by Congress that the LIHTC program has exceeded the goals congress expected of it to help alleviate growing low income rental housing shortages across the nation; and

WHEREAS, the LIHTC was created in 1986 and is a permanent part of the federal tax code that provides states with approximately \$315 million in new credit authority annually, which leverages a estimated \$8.5 billion in investments each year; and

WHEREAS, the formula used to calculate the annual increase in federal credit authority (i.e., \$1.25 times each state's population) is not tied to the growth rate of inflation; and

WHEREAS, since its inception, the LIHTC has sparked private investment to construct and rehabilitate nearly 900,000 units dedicated for 30 years or more at restricted low rents to families with incomes 60 percent or less of an area's median income; and

WHEREAS, according to the GAO study:

(a) The average LIHTC apartment renter earns only 37 percent of the local median income, while average rents are as much as 23 percent below the maximum legally permitted rents and 25 percent below HUD's national fair market rent;

(b) The average cost per unit of housing built using the LIHTC is less than \$60,000;

(c) Though not required by federal law, the states have developed voluntary best practices for LIHTC administration, including limitations on developer and builder fees, and are using tax credit competition to control development costs;

(d) All properties built using the LIHTC appeared in good condition, well maintained, and in compliance with all statutory and regulatory requirements.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council applauds the foresight of congress to create the LIHTC program to help meet the housing needs of our nation's low income working families.

RESOLVED FURTHER, that the Duluth City Council reaffirms its support for the LIHTC program.

RESOLVED FURTHER, that the Duluth City Council urges congress to affirm the success of the LIHTC program by retaining its permanent status and resisting any efforts to weaken or eliminate it.



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RESOLVED FINALLY, that the Duluth City Council hereby directs the city clerk to send copies of this resolution to the Minnesota congressional delegation and to Representative Bill Archer, chairman of the house ways and means committee.

Resolution 97-0478 was adopted upon the following vote:

Yeas: Councilors Hogg, Keenan, Prettnner Solon, Rapaich, Talarico, Wheeler and President Hardesty -- 7

Nays: Councilors Bohlmann and Hales -- 2

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the city of Duluth (city) agrees to act as a legal sponsor for the project contained in the business and community development application to be submitted on May 28, 1997, and that the mayor of the city is hereby authorized to apply to the department of trade and economic development for funding of this project on behalf of the city.

RESOLVED, that the city has the legal authority to apply for financial assistance and the institutional, managerial and financial capacity to insure adequate construction, operation, maintenance and replacement of the proposed project for its design life.

FURTHER RESOLVED, that the city has not incurred any costs and has not entered into any written agreements to purchase property.

FURTHER RESOLVED, that the city has not violated any federal, state or local laws pertaining to fraud, bribery, graft, kickback, collusion, conflict of interest of other unlawful or corrupt practice.

FURTHER RESOLVED, that upon the approval of its application by the state, the city may enter into an agreement with the state of Minnesota for the above referenced project, and that the city certifies that it will comply with all applicable laws and regulations as stated on all contract agreements and described in the compliances section (FP-20) of the business and community development applications.

FURTHER RESOLVED, that the city will obtain credit reports and credit information from Moline Machinery, Ltd. The city and its city attorney will review the reports and information to ensure that no adverse findings or variances regarding, but not limited to, tax liens, judgments, court actions and filings with state, federal and other regulatory agencies are identified. Failure to dissolve any such adverse information could result in revocation or other legal action.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as are necessary to implement the project on behalf of the applicant.

Resolution 97-0480 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Robert and Amy Hargraves, husband and wife, be hereby awarded a contract to lease the Park Point Beach House for the 1997 season (June 1 - September 30). Lessee agrees to operate a concession at the Park Point Beach House and rent the facility to third parties in exchange for five percent of gross revenues from all concession sales and building rentals. Lessee shall also have responsibility for keeping the interior space of the beach house clean, including washroom facilities.

Resolution 97-0459 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Approved May 27, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

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. 97-0527-28 with Crawford, Murphy & Tilly, Inc., the Duluth economic development authority (DEDA) and the Duluth airport authority, for planning services to be provided by Crawford, Murphy & Tilly, Inc., related to an aviation economic development plan at the Duluth International Airport, the city's portion not to exceed \$16,667, payable from Fund 255 economic development.

Resolution 97-0485 was unanimously adopted.

Approved May 27, 1997  
GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to modify City Contract No. 17750 to accept an additional \$10,000 from the National Senior Citizens Education and Research Center (NSCERC) to operate the Title V senior aide program from July 1, 1996, through June 30, 1997, bringing the total grant amount to \$224,788. A copy of this modification shall be on file in the city clerk's office as Public Document No. 97-0527-29.

FURTHER RESOLVED, that monies received pursuant to this grant shall be deposited in Fund No. 270, Budget Item 6323.

Resolution 97-0433 was unanimously adopted.

Approved May 27, 1997  
GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with Independent School District No. 709 for the services of five teachers to provide instructional services to summer youth employment training program clients for the summer youth employment program's academic enrichment component for the period June 9, 1997, through July 25, 1997, at costs not to exceed \$30,000. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 97-0527-30.

FURTHER RESOLVED, that costs incurred shall be charged to Fund 268, Budget Item 6204.

Resolution 97-0437 was unanimously adopted.

Approved May 27, 1997  
GARY L. DOTY, Mayor

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Resolution 97-0434, by President Hardesty, approving Laws of Minnesota 1997, Chapter 101, relating to Miller-Dwan Medical Center, was introduced for discussion.

President Hardesty stated that this issue has been reviewed by a task force and discussed at length by the council, sent to the legislature for approval and now it is time to approve the final legislation.

Councilor Prettner Solon said she supports the legislation because she believes Miller-Dwan needs to operate on a fair playing ground and separately from the city. She stated that her concern has to do with the fact that Miller-Dwan never engaged in discussions with the medical community with regard to its assets, whether they be real or financial, for agreement or direction

of how best to distribute that. She said she believes that Miller-Dwan will need to affiliate in the future because at some point there will be a profit, which is as it should be, but at the same time there is still an asset that belongs to the community at large, that somehow should still be available to be distributed within the medical community. She said it is necessary for Miller-Dwan to move forward and she is reluctant to table the resolution because she believes more discussion will result in a request for revisions by the legislature which in turn will delay the issue further. She challenged Miller-Dwan to engage the medical community to get input about how best to work with the entire medical community and not just portions of it.

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

Beth Storsley, chairperson of the board of directors of trusts of Miller-Dwan Medical Center stated the process has been followed, the concerns that councilors had about needing additional time to consider the issue has been met, there has been sufficient time for all the information to be shared through the legislative process and she is encouraged that this resolution will be approved as the final step of the process.

Councilor Bohlmann stated she will not support this resolution noting there is value in the facility as well as its programs. She added that these assets and services are being taken from the residents of Duluth who must utilize them, because of unusual circumstances they are in, through no choice of their own.

Councilor Wheeler noted that the money donated to build Miller-Dwan Medical Center was a gift entrusted to the city councils of Duluth to oversee and care for to the best of their ability to insure that the quality of the institution will continue. He stated there are strong guarantees in this law that provide that if the institution is sold, there are assets that will come back to the trust and that will be watched over by the courts. Councilor Wheeler stated he believes the council is fulfilling its duty in protecting the investment for the citizens of Duluth.

Responding to Councilor Hales, Jay Christenson, attorney for Miller-Dwan Medical Center, stated that the protection that lies in this process is that the assets will be going to a nonprofit charitable corporation, that is a charitable trust, as is mandated by the legislation under 501(b) of the statutes. He explained that those assets will be forever held for charitable purposes. He said if the physical assets of the hospital are sold and the nonprofit corporation obtains cash, it still must use that cash for the same charitable purposes for the worthy poor and the helpless sick. He added it is a matter of the governing documents of the corporation and a matter of state charitable trust fund.

Councilor Hogg, speaking as a member of the task force, stated that the task force made certain it had specific answers for all of the issues before it voted unanimously to accept the proposal.

President Hardesty stated that, as a member of the board of trusts of the Miller-Dwan Medical Center, she believes this legislation is necessary to keep the hospital viable. She said that there is no guarantee, but reviewed that there will continue to be a city councilor and mayor serving on the board of trusts and that they will continue to be appointed by the district court. She said that before hospital assets could be dissolved in any other way, or sold, there would need to be a public hearing. She noted that there will also be, at the request of the task force, a charitable care committee which the board of trusts will establish and members of the board of trusts will sit on to make sure that the mission of the hospital stays clear and intentional.

Responding to Councilor Bohlmann, Councilor Talarico stated he too has concerns about this facility being run privately, but added that he is grateful that the state legislature did not deviate from the form that was approved by the city council. He warned that the council is virtually relinquishing all control it has with regard to the hospital, however, he also does not want the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Miller-Dwan Medical Center to be economically disadvantaged anymore. He stated he will reluctantly support this legislation, even though he still has concerns that have not been answered, because of the protections built into it.

Councilor Hales moved to call the question, which motion was seconded and carried upon a unanimous vote.

Resolution 97-0434 was adopted as follows:

BY PRESIDENT HARDESTY:

RESOLVED, that pursuant to Minnesota Statutes, Section 645.021, the Duluth City Council hereby gives the required local approval to Laws of Minnesota 1997, Chapter 101, relating to Miller-Dwan Medical Center.

RESOLVED FURTHER, that the city clerk is hereby directed to file a certificate of approval of such law with the secretary of state, as required by Minnesota Statutes, Section 645.021, Subd. 3.

Resolution 97-0434 was adopted upon the following vote:

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

Nays: Councilors Bohlmann and Keenan -- 2

Approved May 27, 1997

GARY L. DOTY, Mayor

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Resolution 97-0491, establishing a process for seeking experienced candidates to fill the prospective vacancy in the second district council seat, and Resolution 97-0492, directing the city clerk to advertise for applicants to fill the prospective vacancy in the second district council seat, by President Hardesty, were introduced for discussion.

Councilor Hogg stated his support for Resolution 97-0491 because in seeking someone who is familiar with city government and who does not intend to campaign for office will be advantageous to the council and will better serve the constituents of the second district by allowing the person to focus on issues before the council instead of dividing his/her attention with campaigning for office. He added that by appointing someone who does not intend to run for the seat will take political pressure off the council.

Councilor Keenan spoke in favor of Resolution 97-0492 stating it is appropriate to keep this process as open as possible. He moved to amend Resolution 97-0492 by adding the word "and" at the end of the third paragraph and inserting a new paragraph to read as follows:

"WHEREAS, the city council feels that it should consider all eligible persons who are interested in applying for such position and not place any restrictions upon the appointment process," which motion was seconded and carried upon the following vote:

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

Nays: Councilor Wheeler -- 1

Councilor Wheeler supported Resolution 97-0491, stating that by appointing a candidate who intends to run for the second councilmanic district seat, it may appear to the public that the council is endorsing the person causing the process to become very political for the council as well as for the individual. He noted that by appointing a caretaker to take care of council business for six months will insure that no candidate seeking election gets unfair advantage over other candidates by means of more exposure through the media.

Councilor Hales supported Resolution 97-0492, stating she believes it is important to keep the process open and that it is not the council's duty to seek and hand pick people who have

experience in city government. She said she sees Resolution 97-0491 as an attempt by the council to control how the second district is represented. With regard to incumbency and unfair recognition during an election, Councilor Hales stated that it just happens to be an unforeseen circumstance of Councilor Wheeler's resignation.

Councilor Bohlmann supported 97-0492, stating it will keep the process open to anyone wishing to fill the vacancy. She said she supports holding a special election to fill the seat, but since the City Charter charges the council with the responsibility of appointing someone to fill a vacancy when it occurs, that is what the council should do. Councilor Bohlmann stated that whether the council wants it to be or not, this process will always be political. She stated that she believes it would be wrong to tell someone who is applying for the position that they cannot run for the seat.

President Hardesty stated she strongly advocates Resolution 97-0491. She said she believes that the criteria the council should use when appointing someone to Councilor Wheeler's seat is that the council appoint a candidate who is currently not running for office and that the appointment of someone who is running for the seat will give that person unfair advantage over other candidates because of increased media recognition.

Councilor Hogg moved to call the question on Resolution 97-0491, which motion was seconded and carried upon a unanimous vote.

Resolution 97-0491 failed upon the following vote (Public Document No. 97-0527-36):

Yeas: Councilors Hogg, Rapaich, Wheeler and President Hardesty -- 4

Nays: Councilors Bohlmann, Hales, Keenan, Prettner Solon and Talarico -- 5

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Councilor Hales moved to call the question on Resolution 97-0492, which motion was seconded and unanimously carried.

Resolution 97-0492, as amended, was adopted as follows:

BY PRESIDENT HARDESTY:

WHEREAS, Councilor David Wheeler has announced that he will be resigning from his position on the city council effective June 29, 1997; and

WHEREAS, pursuant to Section 4 of the City Charter the city council has the responsibility of appointing a person to fill such vacancy until the next general election; and

WHEREAS, the city council desires to initiate the process of filling such vacancy by advertising for applicants for such position; and

WHEREAS, the city council feels that it should consider all eligible persons who are interested in applying for such position and not place any restrictions upon the appointment process.

NOW, THEREFORE, BE IT RESOLVED, that the city clerk is hereby directed to place an ad in the Duluth News-Tribune requesting that interested persons who are eligible to fill such vacancy submit written application with the city clerk setting forth their qualifications for such position and the reasons why they would like to be appointed to fill such vacancy.

RESOLVED FURTHER, that the deadline for submission of such applications shall be June 13, 1997.

Resolution 97-0492, as amended, was adopted upon the following vote:

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

Nays: President Hardesty -- 1

Approved May 27, 1997

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR HOGG:

RESOLVED, that U.S. Filter/Waterpro, Inc., be and hereby is awarded a contract for furnishing and delivering 35,120 feet of plastic pipe and numerous fittings for water and gas in accordance with specifications on its low specification bid of \$15,099.04, terms net 30, FOB Duluth, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 97-0443 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Minnesota Power Company be and hereby is awarded a contract to remove and dispose of existing transformers and construct a new electric transformer substation at Lakewood water pump station in accordance with specifications on its low bid of \$150,000, terms net 30 days, FOB Lakewood water plant, payable out of Water Fund 510, Dept./ Agency 900, Organization 0505, Object 5533.

Resolution 97-0449 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that R.W. Lyall be and hereby is awarded a contract for furnishing and delivering 530 service risers and transitions for the water and gas department in accordance with specifications on its low specification bid of \$6,591.71, terms , FOB shipping pt., payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 97-0453 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Premier Lawn Service/Painting be and hereby is awarded a contract for painting approximately 1,500 gas meter piping sets for the water and gas department in accordance with specifications on its low specification bid of \$12,405.36, terms net 30, FOB job sites, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5319.

Resolution 97-0454 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Northland Ready Mix, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 6,000 cubic yards of pit run gravel for the water and gas department in accordance with specifications on its low specification bid of \$29,821.50, terms net 30, FOB delivered, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227 and Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 97-0471 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete emergency repair at a Miller Creek retaining wall; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to design and construct the retaining wall at Miller Creek; and

WHEREAS, Northland Consulting Engineers has submitted a proposal for engineering design and construction engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Northland Consulting Engineers to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$9,600, will be payable from the P.I. Fund 411, Dept./Agency 035, Organization 2118, Object 5303.

Resolution 97-0442 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to contract for professional asbestos sampling, analysis and removal; and

WHEREAS, the city desires to hire a professional asbestos removal firm to provide the services required to sample, analyze and remove asbestos; and

WHEREAS, Swan and Associates, Inc., has submitted a proposal for professional asbestos services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Swan and Associates, Inc., to provide the city with such asbestos services.

BE IT FURTHER RESOLVED, that the cost of said asbestos services, estimated at \$5,000, will be payable from the General Fund 100, Dept./Agency 500, Organization 1950, Object 5319.

Resolution 97-0444 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Davies Water Equipment Company be and hereby is awarded a contract for furnishing and delivering atmospheric tester maintenance and repairs for the sewer division in accordance with specifications on its low specification bid of approximately \$6,000, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0500, Object 5404.

Resolution 97-0445 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and St. Louis County for intersection improvements and the replacement of traffic control signals at Woodland Avenue and Snively Boulevard and for the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

installation of an interconnect on Woodland Avenue from Arrowhead Road to Snively Boulevard, said agreement attached hereto and filed as Public Document No. 97-0527-31. The costs in this project, which are estimated to be \$138,242.56, are payable out of P.I. Fund 411, Agency 035, Org. 2156, with \$112,992.98 being reimbursable from the C.S.A. fund.

Resolution 97-0448 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that I.S.C.O. Environmental Division be and hereby is awarded a contract for furnishing and delivering three flow loggers and three velocity probes for the sewer division in accordance with specifications on its low specification bid of \$12,109.05, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 97-0455 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth has determined that the following deficient bridges on the city street system are a high priority and require replacement or rehabilitation within the next five years; and

Bridge No.	Road/ Street	Estimated Project Cost	Federal Funds	Local Funds	Bond Funds Needed	Proposed Constr. Year
L6116	Aerial Lift Bridge over St. Louis Bay (rehabilitate)	\$5,200,000	\$3,000,000	\$1,450,000	\$750,000	1998
L8517	Vermilion over Tischer Creek (replace)	216,000	0	86,000	130,000	1998
69812	27th Avenue West over Railroad Tracks (rehabilitate)	120,000	0	40,000	80,000	1998
L8502	Seven Bridges Road over Amity Creek (rehabilitate)	244,000	0	40,000	204,000	1998
L6128	Skyline Boulevard over Keene Creek (replace)	366,000	0	141,000	225,000	1999



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

L8504 L8505	Seven Bridges Road over Amity Creek (rehabilitate)	305,900	203,520	51,500	50,800	1999
88069 88231 L8509	Arrowhead Road over Tischer Creek Columbus over Tischer Creek (replace, combine)	300,000	0	50,000	250,000	2000
L8498	Eighth Street over LaMaggie Creek (replace)	131,000	0	31,000	100,000	2000
L8501 L8506 89451	Seven Bridges Road over Amity Creek (rehabilitate)	360,000	0	60,000	300,000	2000
L6114	Ninth Street over Chester Creek (rehabilitate)	890,000	560,000	190,000	140,000	2001
Bridge No.	Road/ Street	Estimated Project Cost	Federal Funds	Local Funds	Bond Funds Needed	Proposed Constr. Year
L6123	First Street over Chester Creek (rehabilitate)	92,000	0	12,000	80,000	2001
L8477	Tenth Street over Miller Creek (rehabilitate)	890,000	560,000	190,000	140,000	2002
88552	Third Street over Miller Creek (rehabilitate)	92,000	0	12,000	80,000	2002

WHEREAS, local roads play an essential role in the overall state transportation network and local bridges are the critical component of the local road systems; and

WHEREAS, state support for the replacement or rehabilitation of local bridges continues to be crucial to maintaining the integrity of the local road systems and is necessary for the city to proceed with the replacement or rehabilitation of the high priority deficient bridges described above; and

WHEREAS, the city of Duluth intends to proceed with replacement or rehabilitation of these bridges as soon as possible when state transportation bond funds are available.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BE IT RESOLVED, that the city of Duluth commits that it will proceed with the design and contract documents for these bridges immediately after being notified that funds are available in order to permit construction to take place within one year of notification.

Resolution 97-0464 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Northland Ready Mix, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 2,395 cubic yards of class five gravel for the street maintenance division and sewer division in accordance with specifications on its low specification bid of \$16,111.86, terms net 30, FOB delivered, payable out of various funds, dept./agency various, organization various, object various.

Resolution 97-0472 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Billington Contracting, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 1,900 cubic yards of bedding sand for the sewer division in accordance with specifications on its low specification bid of \$10,195.03, terms net 30, FOB delivered, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0570, Object 5227.

Resolution 97-0473 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-0971 to Duluth-Superior Blacktop, Inc., for furnishing annual requirements of bituminous material, be amended to increase the amount by \$38,370 for a new total of \$188,190, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5232.

Resolution 97-0476 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Goodwill Industries Vocational Enterprises (\$24,782.41); Blotti and Sons Contracting (\$10,055.16); and Leprechan Lawn Service (\$8,828.85) be and hereby are awarded a contract for furnishing grass cutting services for the various departments/divisions in accordance with specifications on their low specification bids of a total of \$43,666.42, terms net 30, FOB job sites, payable out of various fund, dept./agency various, organization various, object various.

Resolution 97-0482 was unanimously adopted.

Approved May 27, 1997

GARY L. DOTY, Mayor

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Resolution 97-0484, by Councilor Talarico, ordering the improvement of First Street between 24th Avenue East and 26th Avenue East and Jay Street between 48th Avenue East and 50th Avenue East pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth, was introduced for discussion.

Councilor Hogg reviewed actions that have taken place thus far on the two individual streets and stated that since those actions, the city engineering department has come forth with a revised plan with regard to the Jay Street improvement. He noted that four blocks, which include the 4900 block of Jay Street, are being recommended for improvement. He further stated that the city engineer's office reports that the majority of residents who live on Jay Street wish to see the project go forward.

Councilor Hogg moved to suspend the rules to hear speakers on the Jay Street portion of the resolution, which motion was seconded and unanimously carried.

Barbara Sarvonen supported the improvement of Jay Street. She stated she favors the improvement now for the following reasons: the cost to come back to do it in a future year will be cost prohibitive; the majority of the people in this area to be reconstructed favor the project and are willing to pay for it; the street improvement and new sewers, if constructed, will increase property values; assessments can be spread over a 15 year period with alternative plans available for the financially disadvantaged; the street is presently unimproved and does not have curbs and gutters, which causes excessive amounts of rain water to drain into her yard; and there has been no maintenance done to this block since 1986.

Robert Barrett opposed the project and reviewed statements he made at previous council meetings when this issue was considered. He said the street in this block is in good condition and does not need repair. He stated there is no need for the council to reconsider this issue again since it was voted down in the past. Mr. Barrett stated that nine of 11 residents who live in the 4800 block of Jay Street oppose this improvement.

Responding to Councilor Hogg, Mr. Barrett stated that at least five of the 11 residents who live on the 4800 block of Jay Street still oppose the project; and he was not present at the most recent neighborhood meeting held by city engineers on this improvement.

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Councilor Wheeler moved to extend the council meeting until 11:20 p.m., which motion was seconded and unanimously carried.

- - -

Pat Heaslip stated that the majority of residents who live in the 4800 block of Jay Street oppose this improvement.

Councilor Hogg stated that this is the third time this issue has been discussed by the council and he does not recall having more than the two individuals who spoke tonight come forward to oppose the project. Councilor Hogg moved to split the resolution to separate the two street improvements on this resolution to allowing voting on them individually, which motion was seconded and carried upon a unanimous vote.

Responding to Councilor Hogg, Mr. Dinan stated that Section 61 of the City Charter does not require a public hearing to be held on this type of project.

Resolution 97-0484(a) was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that pursuant to Section 61 (b) of the Home Rule Charter of the city of Duluth, the city council hereby orders the improvement, to city of Duluth standards, of Jay Street between 48th Avenue East and 50th Avenue East; that the costs of said improvement shall be paid from

the street improvement fund (Fund 440) and that ¼ or less of said costs be levied against the property specifically benefitted by said improvements.

BE IT FURTHER RESOLVED, that whenever residents who live in the vicinity of one of the street improvement projects desire to be actively involved in the design development for the street improvement, a design advisory committee consisting of interested residents and staffs from public works, planning and communications will be established to permit early involvement and public input on various street design elements including but not limited to street width, boulevard design and width, tree removal and replacement, driveways, curbing, and traffic patterns.

Resolution 97-0484(a) was adopted upon the following vote:

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

Nays: Councilors Bohlmann and Hales -- 2

Approved May 27, 1997

GARY L. DOTY, Mayor

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The rules were suspended upon a unanimous vote to hear speakers wishing to address the improvement of First Street between 24th Avenue East and 26th Avenue East.

John Streitz stated support of the council's previous decision to separate out these two blocks of the First Street project because of issues that have not yet been resolved. He said he believes that engineering issues with regard to the proposed storm sewer need to be more thoroughly addressed. He stated that councilors are justified in asking that more time and thought be given to this segment of the project before approval and encouraged them to do so.

Joann Paul, representing residents who live on First Street between 24th and 26th Avenues East, stated that they are not opposed to the project, but would like more study to be done with regard to the blasting of the rock beneath the roadway. She noted that after seeing damages caused by blasting during the improvement of 26th Avenue East last year, residents need to be reassured about how blasting will affect their homes. She said that residents fear that if the council approves this resolution anticipating that the problems will be resolved later, and then they are not, then there will be no opportunity for residents to reverse the process.

Councilor Hogg read excerpts from a resident's letter, the League of Minnesota Cities, Minnesota State Statutes and the City Charter with regard to how much an individual property may be assessed in terms of the amount of financial benefits it will receive from an improvement. He expressed concern that it is questionable whether the improvement proposed for this area will increase the value of the property. He continued that it may hurt the value of the property because it changes the character of the neighborhood. He urged caution with regard to approval of this segment because it is the council's responsibility to make sure that the property value of these homes will be increased by at least the amount they are assessed. Councilor Hogg stated he will not support this resolution because he is not satisfied that the city has a well thought out plan that will adequately protect these historical homes from blasting, or insure that properties affected will have an increase in value as great as the cost of the improvements to the property owners.

Councilor Wheeler said he has spoke with residents who live on 26th Avenue East and is aware that trust is at issue in the neighborhood. He spoke of problems resulting from last year's improvement, that residents believe the city is responsible to correct, which has not inspired a lot of confidence in the city. He noted that the council asked for more information with regard to bedrock beneath the street and he understands borings and samples were taken from the middle

of the street. Councilor Wheeler questioned whether borings and samples were taken from the edges of the street because that is what will be affected when the blasting takes place. He stated that if borings were not taken from the edges, the requested information is inadequate and incomplete and further study will have to be done. He asked what the city is doing to reestablish the trust level with the neighborhood.

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Councilor Hales moved to extend the meeting until 11:30 p.m., which motion was seconded and unanimously carried.

- - -

Responding to Councilor Rapaich, Mr. Nollenberger affirmed that if this resolution is approved tonight, there will still be an opportunity to vote down the project when the contract comes before the council for approval.

Responding to Councilor Wheeler, Mr. Larson stated that to answer the questions asked, the street design would have to be complete and that the process for designing the street has just begun. He stated that the reasons the borings were done down the center of the street was to conserve costs and because it is not certain where the storm sewer will go and having some idea of the rock profile will enable engineers to decide where it should go. Mr. Larson stated that in terms of trust, the engineering division does have a good track record with working with neighborhoods. He added that if this resolution is not passed, the design process will never begin and questions asked will never be answered.

Councilor Hales moved to call the question, which motion was seconded and carried upon a unanimous vote.

Resolution 97-0484(b) failed upon the following vote (Public Document No. 97-0527-35):  
Yeas: Councilors Keenan, Prettner Solon, Rapaich, Talarico and Wheeler -- 5  
Nays: Councilors Bohlmann, Hales, Hogg and President Hardesty -- 4  
(Section 61(b) of the Home Rule Charter requires a 7/9 vote to pass.)

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BY COUNCILOR HALES:

RESOLVED, that St. Louis County department of communications be and hereby is awarded a contract for furnishing 12 months of access to 30 mobile data terminals for the police department in accordance with specifications on its bid of \$13,920, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5441.

Resolution 97-0474 was unanimously adopted.  
Approved May 27, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized to execute a grant agreement with the Minnesota department of public safety under which the city will receive not to exceed \$240,000 to operate a regional hazardous materials emergency response/chemical assessment team during fiscal years 1998 and 1999, which agreement is on file in the office of the city clerk as Public Document No. 97-0527-32.

Resolution 97-0479 was unanimously adopted.  
Approved May 27, 1997  
GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR RAPAICH

97-013 - AN ORDINANCE PERTAINING TO DANCING LICENSES FOR ON SALE LIQUOR ESTABLISHMENTS; AUTHORIZING SEASONAL AND TEMPORARY LICENSES; AMENDING SECTION 8-40, DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR PRETTNER SOLON

97-011 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 4 AND 5, BLOCK 1, REARRANGEMENT OF LENROOTS ADDITION TO LEONARD J. PEKKALA AND BROOKE D. PEKKALA, HUSBAND AND WIFE, FOR CONSIDERATION OF \$1,600, PAYABLE TO GENERAL FUND 100-700-1418-4640.

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BY COUNCILOR PRETTNER SOLON

97-012 - AN ORDINANCE REPEALING ARTICLE XVIII OF CHAPTER 2 OF THE CITY CODE, RELATING TO THE DULUTH SRO HOUSING COMMISSION.

- - -

BY COUNCILOR KEENAN

97-010 - AN ORDINANCE AMENDING ARTICLE IX OF CHAPTER 2 OF THE CITY CODE, RELATING TO THE PARK AND RECREATION BOARD.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR PRETTNER SOLON

97-008 (9331) - AN ORDINANCE DESIGNATING THE FORMER CITY HALL AS A DULUTH HERITAGE PRESERVATION LANDMARK.

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

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BY COUNCILOR PRETTNER SOLON

97-009 (9332) - AN ORDINANCE DESIGNATING THE FORMER CITY POLICE STATION AS A DULUTH HERITAGE PRESERVATION LANDMARK.

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

- - -

The meeting was adjourned at 11:29 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 9331**

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE DESIGNATING THE FORMER CITY HALL AS A DULUTH HERITAGE PRESERVATION LANDMARK.

The city of Duluth does ordain:

Section 1. That the city of Duluth does designate, pursuant to Chapter 28A of the Duluth City Code, 1959, as amended, the former City Hall as a Duluth Heritage Preservation landmark; said landmark is described in Public Document No. 97-0527-33 on file with the city clerk, and is described as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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(a) The exterior and certain interior portions of the building located on Lot 32, Block 2, Central Division; address: 132 East Superior Street.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 6, 1997)

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

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

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 27, 1997  
Approved May 27, 1997  
GARY L. DOTY, Mayor

- - -

**ORDINANCE NO. 9332**

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE DESIGNATING THE FORMER CITY POLICE STATION AS A  
DULUTH HERITAGE PRESERVATION LANDMARK.

The city of Duluth does ordain:

Section 1. That the city of Duluth does designate, pursuant to Chapter 28A of the Duluth City Code, 1959, as amended, the former City Police Station as a Duluth heritage preservation landmark; said landmark is described in Public Document No. 97-0527-34 on file with the city clerk and is described as follows:

(a) The exterior of the building located on Lot 30, Block 2, Central Division Duluth; address: 126 East Superior Street.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 6, 1997)

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

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

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 27, 1997  
Approved May 27, 1997  
GARY L. DOTY, Mayor

- - -

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, June 9, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0609-20 Ruth K. Anderson submitting communication pertaining to nonconforming use of a building on property located at 911 North 56th Avenue West (Jakubek) (97-0501R). -- Received

97-0609-01 Elsie Jean Austin submitting communication pertaining to agreement with Durenberger/Foote to provide Washington legislative services to the city (97-0483R). -- Received

97-0609-02 The following submitting communications pertaining to proposed 1998 street improvement program (97-0292R): (a) Virginia May (supported by ten signatures); (b) Charles E. Mehlberg; (c) JoAnn Paul (supported by eight signatures); (d) Chauncey W. Riggs; (e) Nancy O. Spellerberg. -- Received

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**REPORTS OF OFFICERS**

97-0609-03 Assessor submitting letters of sufficiency regarding petitions for: (a) Vacation of: (1) A portion of Washington Avenue southerly of the southerly right-of-way line of East First Street extended and easterly of the easterly right-of-way line of Seventh Avenue East extended; (2) Alley between Lots 25 and 26 of Block 8, Ironton Fourth Division; (b) Reclassification from R-1-b to C-5 the southerly 1/2 of Lots 12, 11 and part of Lots 10, 9, 8, 7, 6 and 5 south of Central Highway, Lots 13, 14, 15, 16, 18, 19 and 20, Block 1, Clearview Park. -- Received

97-0609-04 Community development and housing division submitting: (a) HUD annual report for program year 1996; (b) HRA housing rehabilitation report for March, 1997; (c) HUD quarterly report, January - March, 1997. -- Received

97-0609-05 Purchasing agent submitting emergency order awarded to Krech and Ojard Engineers to perform additional professional engineering services required at London Road Armory (District No. 3 tool house). -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

97-0609-06 Alcoholic beverage board minutes of: (a) March 19; (b) March 27; (c) April 16, 1997, meetings. -- Received

97-0609-07 Citywide citizens advisory committee minutes of: (a) May 27; (b) May 29, 1997, meetings. -- Received

97-0609-08 Civil service board minutes of April 7, 1997, meeting. -- Received

97-0609-09 Duluth airport authority: (a) January 31, 1997, balance sheet; (b) Minutes of April 15, 1997, meeting. -- Received

97-0609-10 Duluth housing trust fund board minutes of: (a) March 13; (b) April 10, 1997, meetings. -- Received

97-0609-11 Housing and redevelopment authority minutes of April 29, 1997, meeting. -- Received

97-0609-12 Neighborhood advisory council minutes of April 17, 1997, meeting. -- Received



97-0609-13 Special assessment board: (a) Continuation of report for proposed improvement in Branch Street Alley from 29th Avenue East to 30th Avenue East; (b) Minutes of May 13, 1997, meeting; (c) Report, findings and recommendations for proposed sanitary sewer and water main in 87th Avenue West from 1,200 feet north of Lawn Street to 150 feet northerly; (d) Report, findings and recommendations for proposed utility extension in Arrowhead Road from Arlington Avenue to Swan Lake Road. -- Received

97-0609-14 Sanitary sewer board of WLSSD minutes of May 19, 1997, meeting. -- Received

97-0609-15 Tree commission minutes of May 12, 1997, meeting. -- Received

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### **OPPORTUNITY FOR CITIZENS TO BE HEARD**

Walter Sippola expressed thanks to the city for its decision to allow the width on 20th Avenue East to remain the same making it unnecessary to cut the trees on the boulevard.

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### **RESOLUTION RECONSIDERED**

President Hardesty moved to reconsider Resolution 97-0484(b), ordering the improvement of First Street between 24th Avenue East and 26th Avenue East pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth (1998 street improvement program), which motion was seconded and unanimously carried.

President Hardesty stated that discussions have taken place to resolve issues regarding residents' needs and concerns. She noted that reconsideration of the resolution will allow the whole Endion neighborhood street program, which was terminated last week by Mayor Doty, to proceed.

Mayor Doty stated that it was necessary to terminate the Endion street project to protect the integrity of the program now and in the future. Mayor Doty reviewed the process used for the improvement of the streets and noted that for the most part, it has worked well. He stated that the city is implementing a number of the neighborhoods' requests to enable the project to proceed.

Administrative Assistant Nollenberger stated that the city is consulting with Mn/DOT regarding blasting procedures to develop a citywide policy for the engineering division to follow to minimize damage and expedite claims when they arise.

Councilor Hogg stated he has been encouraged by the administration's response to concerns raised by the residents.

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

Joann Paul, representing the 2400 to 2600 blocks of East First Street, stated that neighbors will support the Endion project as long as the ten conditions included in a petition submitted by the neighborhood (Public Document No. 97-0609-02(c)) are met. She reviewed that reasons for opposition to the project stem from unresolved damages caused by blasting when 26th Avenue East was improved last year. Ms. Paul noted it is difficult to get information from the city and that residents do not trust the city because of experiences related to the 26th Avenue East improvement. Ms. Paul stated support for the project if it is done safely and effectively with as little damage as possible to homes and neighborhoods while keeping the integrity of the neighborhood intact.

Richard Wilson, Wayne Jarvis, Nancy Spellerberg, Robert Pristash, Oregon Peterson, Mitchell Wicklund, Virginia May, Arnold Larson, Donna Moody, Craig Kwak, Virginia King, Scott Hoversten-Mellem and Gudrum Witrak spoke in support of the resolution, noting the need for street repair because of the present deteriorated condition and neighborhood concerns have been adequately addressed.

Councilor Talarico stated there must be trust between the people and their government to establish a good working relationship in order to achieve desired neighborhood goals.

Councilor Hales stated support for the neighborhoods to empower themselves by working together.

Councilor Hales and Councilor Keenan urged the administration to start a defined process with the neighborhoods to work out details before councilors are asked to approve projects.

Councilor Bohlmann stated she will not support the resolution to be consistent with her past opposition to the street improvement program. She encouraged the administration to develop a policy that requires contractors to be responsible for damages done during their construction and to repair or redo portions of construction that do not meet the specifications of their contract.

President Hardesty encouraged neighborhoods to stay involved in processes such as this even though there is conflict. She added that persistent involvement usually results in problem resolution.

Resolution 97-0484(b) was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that pursuant to Section 61 (b) of the Home Rule Charter of the city of Duluth, the city council hereby orders the improvement, to city of Duluth standards, of First Street between 24th Avenue East and 26th Avenue East; that the costs of said improvement shall be paid from the street improvement fund (Fund 440) and that ¼ or less of said costs be levied against the property specifically benefitted by said improvements.

BE IT FURTHER RESOLVED, that whenever residents who live in the vicinity of the street improvement project desire to be actively involved in the design development for the street improvement, a design advisory committee consisting of interested residents and staffs from public works, planning and communications will be established to permit early involvement and public input on various street design elements including but not limited to street width, boulevard design and width, tree removal and replacement, driveways, curbing, and traffic patterns.

Resolution 97-0484(b) was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Approved June 9, 1997

GARY L. DOTY, Mayor

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### RESOLUTIONS TABLED

Councilor Wheeler moved to remove Resolution 97-0385, recommending that the city establish a comprehensive street maintenance program; Resolution 97-0386, recommending that the city conduct a comprehensive study of its fleet maintenance operations; and Resolution 97-0387, requesting the city to provide a five year analysis of snow removal budgets, from the table, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Prettner Solon -- 1

Councilor Wheeler reviewed that Resolution 97-0385 relates to the establishment of a policy for street maintenance that will ensure good street conditions are maintained on a regular basis.

Responding to Councilor Keenan, Mr. Nollenberger stated that the engineering division has completed a street inventory of the condition of each street, and is now compiling improvement

costs for each street and costs for maintenance of streets that are already improved. He said that the projected costs will be included in the budgetary process each year.

Councilor Keenan stated he will not support this resolution because the administration is presently putting together a comprehensive street program. He suggested that the council wait for submittal of the report and cost figures and deal with priorities in September.

Councilor Wheeler expressed concern that the council established the street project as their third highest priority and by dismissing this resolution is saying a comprehensive street program is not necessary.

Councilor Hales stated she will not support this resolution because a plan is in the works and uses the budget process to set street project priorities.

Councilor Talarico supported the resolution and stated that as chair of the public works committee, he has yet to see a comprehensive street program and this resolution just puts the request to the administration in writing.

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

Resolution 97-0385 was adopted as follows:

BY COUNCILOR WHEELER:

WHEREAS, because of the weather extremes the city's streets are exposed to, it is critical that the city have a comprehensive and technologically advanced street maintenance program in place in order to preserve our newly constructed streets, maintain our older streets in acceptable condition until they can be rebuilt and to decrease necessary maintenance visits.

NOW, THEREFORE, BE IT RESOLVED, that the city council recommends that the administration establish a comprehensive street maintenance program encompassing the following elements:

- (a) The program should make use of the latest in asphalt technologies;
- (b) The program should involve use of experts in development of the program and the training of city personnel who will be implementing it;
- (c) The program should incorporate a two year test program analyzing the difference between hot patches, cold patches and various application procedures.

Resolution 97-0385 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hogg, Rapaich, Talarico, Wheeler and President Hardesty -- 6

Nays: Councilors Hales, Keenan and Prettner Solon -- 3

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

Regarding Resolution 97-0386, recommending that the city conduct a comprehensive study of its fleet maintenance operations, Councilor Prettner Solon stated this resolution wastes time and money for city staff whose time should be spent on their regular duties.

Councilor Wheeler stated that this proposal would require the city to work in close collaboration with the county's fleet operation to save taxpayer dollars.

Resolution 97-0386 failed upon the following vote (Public Document No. 97-0609-16):

Yeas: Councilor Wheeler -- 1

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

- - -

Regarding Resolution 97-0387, requesting the city to provide a five year analysis of snow removal budgets, Councilor Prettner Solon reminded councilors that the information this

resolution requests is available from staff by placing a simple phone call. She stated she will not support this resolution.

Councilor Wheeler withdrew the resolution and requested that all councilors be provided a copy of the memo that outlines all the information requested in the resolution.

- - -

### **MOTIONS AND RESOLUTIONS**

BY COUNCILOR RAPAICH:

RESOLVED, that Johnson-Wilson Constructors be and hereby is awarded a contract for construction of modifications to the Fairmont Park picnic shelter in accordance with specifications on its low specification bid of \$41,286 (base bid - deduct alternate No. 1), terms net 30, FOB job site, \$33,922 payable out of Capital Improvement Fund 450, Dept./Agency 015, Organization 1994, Object C432 and \$7,364 payable out of Capital Improvement Fund 450, Dept./Agency 015, Organization 1994, Object C417.

Resolution 97-0475 was unanimously adopted.

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0495, by Councilor Rapaich, issuing temporary on sale nonintoxicating malt liquor licenses to Greek Orthodox Church (Twelve Holy Apostles), 632 East Second Street, and Grandma's Marathon - Duluth, Inc., Morse Street and Canal Park Drive, was introduced for discussion.

Councilor Keenan stated he will abstain from voting on the resolution because of his position as executive director for Grandma's Marathon.

Resolution 97-0495 was adopted as follows:

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals:

Greek Orthodox Church (Twelve Holy Apostles), 632 East Second Street, for June 28 and 29, 1997, with Nick Petrangelo, manager;

Grandma's Marathon - Duluth, Inc., Morse Street and Canal Park Drive, for June 20, 21, and 22, 1997, with Donald Fennessy, manager, with the music and serving ceasing at 12:30 a.m.

Resolution 97-0495 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Keenan -- 1

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Grandma's Inc. (Grandma's Saloon & Deli), 522 Lake Avenue South, for June 21, 1997, with serving ceasing at 12:30 a.m.;

Lemon's Reef, Inc. (Reef Bar), 2002 London Road, for June 21, 1997.

Resolution 97-0496 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Approved June 9, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves of the liquor control commissioner issuing the following bottle club license renewals for the 1997-1998 license period, subject to departmental approvals and the payment of sales and property taxes:

American Legion Post #71, 5814 Grand Avenue;  
Order of Owls, Nest #1200, 118 East First Street.

Resolution 97-0497 was unanimously adopted.

Approved June 9, 1997  
GARY L. DOTY, Mayor

- - -

Resolution 97-0499, by Councilor Rapaich, authorizing consumption of alcoholic beverages in public places in Canal Park on June 21-23, 1997, in conjunction with Grandma's Marathon and subject to certain conditions, was introduced for discussion.

Councilor Keenan stated he will abstain from voting on the resolution because of his position as executive director for Grandma's Marathon.

Resolution 97-0499 was adopted as follows:

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places in the areas bounded by Commerce Street, the lakeshore, Canal Park Drive and Lake Avenue during the marathon on June 21, 1997, and confined to the fenced in parking lot at night on June 20-22, 1997, in conjunction with Grandma's Marathon, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

Resolution 97-0499 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Keenan - 1

Approved June 9, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Larson Chevrolet be and hereby is awarded a contract for Chevrolet original equipment parts, supplies and service for the fleet services division in accordance with specifications on its low specification bid of \$10,000, terms net 30, FOB destination, \$7,000 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221 and \$3,000 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5404.

Resolution 97-0507 was unanimously adopted.

Approved June 9, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals:

Mr. D's Men's and Women's Softball Team (Softball Tournament), Wheeler Field, for June 14 & 15, 1997, with Al Terwey, manager.

Resolution 97-0513 was unanimously adopted.

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0529, by Councilor Rapaich, requesting the city to proceed with installation of traffic control signals at two locations on Grand Avenue, was introduced for discussion.

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

Christine Loisell stated support for the installation of traffic signals at Raleigh Street and in front of the zoo and raised concern at how extremely difficult it is for pedestrians to cross Grand Avenue. She noted that with new developments going up in the area, safety is jeopardized with increased vehicle and pedestrian traffic.

Grand Odegard, representing the West Duluth Coalition, reviewed that after much discussion to find a solution for pedestrian safety along Grand Avenue, it was decided that street lights would best address the problem. He reviewed that this has been an ongoing issue for several years with a lot of talk and no action. Mr. Odegard encouraged the administration and council to go forward with this issue and stop the finger pointing that has been ongoing between state and city.

Warren Sundstrom, whose daughter was killed 11 years ago on Grand Avenue, stated he has since tried to figure out how to prevent this from happening again. He spoke in support of the resolution.

Therese Bedard reviewed that she has been contacting city people for seven years and found it has been an ongoing issue for 35 years. She stated that Grand Avenue is presently a speedway and that the proposed stop lights will break the flow of traffic at the zoo, and at Raleigh and Grand. She suggested putting a third light at Norton Park. She noted that safety and people's lives are the issue.

Richard Larson, director of public works, stated that the city and Mn/DOT are in agreement that because of fast growing development in the area, Grand Avenue is not only unsafe for pedestrians trying to cross the street, but also for motorists trying to turn on to or off of Grand Avenue. Mr. Larson noted that the issue between the state and the city is not one of money but where to put the lights and how many should be installed. He said after meeting with residents for their input, it was decided that the focus should be at the zoo and Raleigh Street intersections.

Councilor Hales reviewed that she has attended neighborhood meetings and she supports this resolution. She noted support from Senator Solon and the director of Mn/DOT and said the city needs to support it also. She urged immediate installation of the lights.

Councilor Talarico agreed there is a need to slow traffic on Grand Avenue and stated the need for the city to do something to resolve the issue.

Councilor Bohlmann stated that safety is an important issue and that the city needs to focus its attention on the preservation of safety and prevention of accidents and deaths.

Resolution 97-0529 was adopted as follows:

BY COUNCILOR RAPAICH:

WHEREAS, because of the speed and volume of the traffic on Grand Avenue west of the Spirit Valley shopping area and the lack of traffic control devices in that area, it is presently unsafe for pedestrians to cross Grand Avenue in that area; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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WHEREAS, residents in that area of Grand Avenue have requested that two traffic control signals be installed along this stretch of Grand Avenue to create breaks in traffic that will make it safer for pedestrians to cross the roadway; and

WHEREAS, the city council supports the request of these residents.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby recommends that the city and state install traffic control signals on Grand Avenue at its intersections with Raleigh Street and the entrance to the Lake Superior Zoo.

Resolution 97-0529 was unanimously adopted.

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

NEIGHBORHOOD ADVISORY COUNCIL

John Hamel (Endion/East Hillside) for a term expiring March 1, 2000, replacing Elmer Harvey.

Resolution 97-0488 was unanimously adopted.

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

ANIMAL HUMANE BOARD

John H. Bray for a term expiring October 31, 2001, replacing Gerald Anderson.

Resolution 97-0489 was unanimously adopted.

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

TECHNICAL DESIGN ADVISORY COMMITTEE for the Downtown Waterfront Mixed Use-Design Review District

Jay Bergman (at large) for a term expiring May 31, 2000, replacing Linda Podvin.

Resolution 97-0490 was unanimously adopted.

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the city is hereby authorized to hire Karen Rylander-Davis to provide certain training and development services to the city at a cost of \$500, which shall be paid from the General Fund 015-1510-5446.

Resolution 97-0515 was unanimously adopted.

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Resolution 97-0440, by Councilor Prettner Solon, designating American Indian Community Housing Organization as a HOME program CHDO and reserving \$47,640 in fiscal year 1996 and \$22,260 in fiscal year 1997 HOME program CHDO funds, was introduced for discussion.

Councilor Hales moved to table the resolution for more information, which motion was seconded and failed upon the following vote:

Yeas: Councilors Bohlmann, Hales and Hogg -- 3

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

Councilor Hales voiced concern that the biggest minority in Duluth is American Indian and that this money is going to only one agency when there are other American Indian programs that could qualify for this money as well.

Resolution 97-0440 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, pursuant to 42 U.S.C. 3539(d) and 42 U.S.C. 12701-12839, the U.S. department of housing and urban development (HUD) has established the HOME program and the regulations governing said program as set forth in 24 CFR Part 92; and

WHEREAS, pursuant to said regulations, HUD requires the city of Duluth as a participating jurisdiction to designate community housing development organizations (CHDOs), to set aside 15 percent of its HOME program allocation for the use of the CHDOs and to reserve said funds for CHDOs and other qualifying entities.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby designate American Indian Community Housing Organization as a CHDO.

FURTHER RESOLVED, that the city does hereby carry over and reserve \$47,640 from fiscal year 1996 allocation of HOME program CHDO funds to fiscal year 1997, and reserves \$22,260 from fiscal year 1997 HOME program CHDO funds for a total of \$70,000, for the use of the following qualifying organizations:

Oshi Odaadiziwini Waaka'igan - rehabilitation;

American Indian Community Housing Organization.

Recommendation: \$70,000 (\$47,640 in 1996 HOME funds) 260-020-2652-4003

(\$22,260 in 1997 HOME funds) 260-020-2662-4003

Resolution 97-0440 was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the North Star Community Development Corporation project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0609-17, with the North Star Community Development Corporation (NSCDC) of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$115,000, payable out of the 1997 Federal Program Fund 262 - community development - North Star CDC Account No. 6017.

Resolution 97-0493 was unanimously adopted.



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Approved June 9, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into individual neighborhood matching grants fund agreements for Round II, 1997 neighborhood matching grants fund, payable from Fund 100, Agency 700, Organization 1417, Object 5490, with the organization grantees listed below substantially in the form of that on file in the office of the city clerk as Public Document No. 97-0609-18, for the following amounts and projects listed:

Tier II Grants (\$3,001 - \$20,000)

<u>Amount</u>	<u>Project</u>	<u>Organization</u>
\$ 5,500	concession stand- Central little league fields	Central Little League Association
\$ 7,032	improvements to Lower Chester facility	Lower Chester Hockey Association
\$ 7,511	Woodland baseball field renovation	Woodland Community Club and Eastern Little League Association
<hr/> \$20,043	total grants (Tier II)	

FURTHER RESOLVED, that the administrative assistant is authorized to increase the amount payable under any of the individual neighborhood matching grants fund agreements upon proof of unanticipated cost overruns beyond the control of the grantee, provided, however, that the total amount (including cost overruns) of the Tier II neighborhood matching grants authorized by this resolution, as well as Tier I grants which are approved by the city interdepartmental team for projects ranging from \$500 to \$3,000, shall not exceed \$40,000.

Resolution 97-0501 was unanimously adopted.

Approved June 9, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Richard and Victoria Jakubek have appealed to the city council the decision of the board of zoning appeals to deny a request to allow a nonconforming use of a building (owner occupied three apartment structure) in an R-2 zone restricted to single and two family homes and reduce the required space limits to accommodate the existing property size of 50 feet x 125 feet (6,250 square feet) on property located at 911 North 56th Avenue West; and

WHEREAS, the city council has considered this appeal and determined that the required findings for granting of a variance to allow the nonconforming use of a triplex in a single and two family zone can be made in this case based upon limits set forth in the zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the board of zoning appeals' decision of April 22, 1997, is hereby reversed by the city council, and the appeal is granted.

Resolution 97-0503 was unanimously adopted.

Approved June 9, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Arrowhead Regional Development Commission under which the commission will provide services to complete a GIS land use map for the city, which agreement is on file in the office of the city clerk as Public Document No. 97-0609-19, at a cost to the city of not to exceed \$4,000, which shall be payable from the General Fund 100-020-1200-5313.

Resolution 97-0509 was unanimously adopted.

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to City Contract No. 17913 with the firm of Maki and Overom, Chartered, for legal services related to the tax petitions filed by Consolidated Papers, Inc., on behalf of Lake Superior Paper Industries and Superior Recycled Fibers Industries, increasing the amount payable thereunder by \$19,000, payable from Tax Increment Financing District No. 6.

Resolution 97-0511 was unanimously adopted.

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers hereby authorize Amendment No. 1 to Agreement No. 17396 with Architectural Associates on an hourly basis for the sum of not to exceed \$3,400, from Capital Fund 450, Agency 015, Org. 1997, Obj. C704, for providing certain architectural services to the city of Duluth in connection with citywide play structure update, Phase II, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 97-0609-21.

Resolution 97-0481 was unanimously adopted.

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute an amendment to Agreement No. \_\_\_\_\_, substantially in the form of Public Document No. 97-0609-22, on file in the office of the city clerk, with the Duluth state convention center administrative board for organization and promotion of the Fourthfest on July 4, 1997, at Bayfront Festival Park, increasing the amount payable thereunder by not to exceed \$25,000, payable from Special Projects and Events Account 100-015-2030.

Resolution 97-0510 was unanimously adopted.

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are authorized and directed to execute that certain agreement filed as Public Document No. 97-0609-23, granting to Harold Martin and Wanita Shelton in consideration for undertaking the obligation of performing the services set forth in the agreement, the right to occupy the living quarters at the Wheeler Fieldhouse apartment for a gross rental of \$400 per month, which will be reduced to zero if the conditions of the agreement

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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are met.

Resolution 97-0514 was unanimously adopted.

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0531, by President Hardesty, appointing \_\_\_\_\_ to fill the vacancy in the second district council seat, was introduced for discussion.

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

Yeas: Councilor Keenan -- 1

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

Councilor Hales suggested that the clerk prepare a list of applications and information on each candidate and then each councilor be allowed to list and rank the applicants to avoid polarizing how each councilor feels about a candidate.

Councilor Keenan proposed that the council interview all candidates no matter how many.

Councilor Bohlmann requested that a basic set of questions be developed to ask each candidate.

Councilor Prettner Solon moved to table the resolution for a committee of the whole meeting on June 16, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR HOGG:

RESOLVED, that LHB Engineers & Architects is awarded a contract to provide preliminary engineering and construction administration for building code and fire code improvements at the water and gas office building at 414 West First Street in accordance with specifications in conjunction with the expansion of the skywalk system to the water and gas building with the water and gas department's pro-rata share of this service being \$9,400, \$4,700 payable out of Water Fund 510 Dept./Agency 900, Obj. 5533, and \$4,700 payable out of Gas Fund 520, Dept./Agency 900, Obj. 5533.

Resolution 97-0466 was unanimously adopted.

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Silverness Plumbing, Heating and Excavating, Inc., be and hereby is awarded a contract for construction and installing ten inch ductile iron water main, booster pump and three inch plastic gas main at the airport industrial park for the water and gas department in accordance with specifications on its low specification bid of \$122,177.75, terms net 30, FOB job site, \$86,172.75 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533 and \$36,005 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 97-0505 was unanimously adopted.

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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delivering fittings and valves of various sizes for the water and gas department in accordance with specifications on its low specification bid of \$10,461.07, terms two percent 10/net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 97-0506 was unanimously adopted.

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0512, by Councilor Hogg, awarding a contract to Stout Mechanical, Inc., for extending steam line to the Duluth fire hall headquarters in accordance with specifications on its low bid of \$51,700, was introduced for discussion.

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

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 97-0148 be amended to MacQueen Equipment for furnishing a trip edge plow to increase the amount by \$2,714.69 for a new total of \$8,406.05, \$249.05 payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5580 and \$8,157 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2006, Object V536.

Resolution 97-0446 was unanimously adopted.

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Standard Brick and Supply, Inc., be and hereby is awarded a contract for furnishing and delivering sewer repair material consisting of 1,000 bags eucopatch, 50 pails damit and 20 gallons of flexcon for the sewer division in accordance with specifications on its specification bid of \$15,726.10, terms net 30, FOB destination, \$7,863.05 payable out of Sewer Fund 530, Dept./Agency 500, Organization 0570, Object 5227 and \$7,863.05 payable out of Sewer Fund 530, Dept./Agency 500, Organization 0585, Object 5227.

Resolution 97-0456 was unanimously adopted.

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Amberjack Tree Service be and hereby is awarded a contract for boulevard trees removal for the street/park maintenance division in accordance with specifications on its low specification bid of \$23,392, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5454.

Resolution 97-0504 was unanimously adopted.

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

BE IT RESOLVED, that based on a funding recommendation made by the citywide citizens advisory committee (CCAC) on May 27, 1997, the proper city officers are hereby authorized to make the following funding transfer in the 1994 Federal Program Fund 263:

1994 Community Development Program

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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<u>Account</u>	<u>Project</u>	<u>Orig.</u>	<u>Mod.</u>	<u>Revised</u>		
6258	West Duluth streets/sewers		\$434,976		-\$15,000	\$419,976
6259	West End Central Park stair/parking		\$ 80,000		+\$15,000	\$ 95,000

BE IT FURTHER RESOLVED, that Salo Trucking & Excavating, Inc., be and hereby is awarded a contract for construction of improvement of the parking lot at 18-1/2 Avenue West for the engineering division in accordance with specifications on its low specification bid of \$37,440, terms net 30, FOB job site, payable out of 1994 Federal Program Fund 263 - community development - West End (Lincoln Park) Central Park stair and parking project Account 6259.

Resolution 97-0508 was unanimously adopted.

Approved June 9, 1997

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinance was read for the first time:

BY COUNCILOR RAPAICH

97-014 - AN ORDINANCE ADDING A NEW SECTION 41-32 TO THE CITY CODE RELATING TO THE AWARD OF CONTRACTS NOT SUBJECT TO THE COMPETITIVE BIDDING PROCESS.

- - -

The following entitled ordinances are to be read for the second time:

BY COUNCILOR RAPAICH

97-013 (9335) - AN ORDINANCE PERTAINING TO DANCING LICENSES FOR ON SALE LIQUOR ESTABLISHMENTS; AUTHORIZING SEASONAL AND TEMPORARY LICENSES; AMENDING SECTION 8-40, DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY COUNCILOR PRETTNER SOLON

97-011 (9334) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 4 AND 5, BLOCK 1, REARRANGEMENT OF LENROOTS ADDITION TO LEONARD J. PEKKALA AND BROOKE D. PEKKALA, HUSBAND AND WIFE, FOR CONSIDERATION OF \$1,600, PAYABLE TO GENERAL FUND 100, AGENCY 700, ORG. 1418, OBJ. 4640.

Councilor Prettnner Solon moved passage of the ordinance and the same was passed upon a unanimous vote.

- - -

BY COUNCILOR PRETTNER SOLON

97-012 - AN ORDINANCE REPEALING ARTICLE XVIII OF CHAPTER 2 OF THE CITY CODE, RELATING TO THE DULUTH SRO HOUSING COMMISSION.

Councilor Prettnner Solon explained that this ordinance abolishes the SRO housing commission and how the situation has changed in Duluth since 1986 when it was first established. She said the Duluth housing trust fund board is now in a position to take over the commission's role in advising the city.

Councilor Hales requested a meeting with Duluth housing trust fund board members if the duties and purpose of the board have changed.

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

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

Nays: Councilors Keenan and Talarico -- 2

- - -

BY COUNCILOR KEENAN

97-010 (9333) - AN ORDINANCE AMENDING ARTICLE IX OF CHAPTER 2 OF THE CITY CODE, RELATING TO THE PARK AND RECREATION BOARD.

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

Richard Haney explained that the amendment to the ordinance is the result of a process that began two years ago with the 2001 process, but there has been concern for several years with regard to recreation. He continued that a subcommittee was formed by the 2001 recreation committee to expand the existing park and recreation board to make it more representative of the people, both geographically and demographically. Mr. Haney stated that there has been a large amount of public input and support from the community and urged council support for this amendment.

Councilor Keenan thanked Mr. Haney for a great job as the leader of the project through 2001.

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

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

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

- - -

**ORDINANCE NO. 9335**

BY COUNCILOR RAPAICH:

AN ORDINANCE PERTAINING TO DANCING LICENSES FOR ON SALE LIQUOR ESTABLISHMENTS, AUTHORIZING SEASONAL AND TEMPORARY LICENSES, AMENDING SECTION 8-40, DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 8-40 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-40. Dancing licenses for liquor establishments.

(a) No person licensed to sell alcoholic beverages on sale shall allow any dancing participated in by the public on said premises unless such person has first received a license pursuant to this Section;

(b) A dancing license shall entitle the license holder to have dancing participated in by the public on the licensed premises. The fee for a dancing license is \$900 per year if the applicant holds an on sale intoxicating liquor license and \$750 if the applicant holds a wine or 3.2 percent malt liquor license. The fee shall be prorated in the same manner as liquor licenses;

(c) Notwithstanding any provision of this Section or Chapter to the contrary, clubs and congressionally chartered veterans organizations that are open only to members and bona

fide guests of members may have dancing participated in by members and guests, without securing a dancing license;

(d) Notwithstanding any provision of this Section or Chapter to the contrary, seasonal dancing licenses covering the months of May through August may be issued to any on sale licensee for a fee of \$300.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 20, 1997)

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

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

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 9, 1997  
Approved June 9, 1997  
GARY L. DOTY, Mayor

- - -

**ORDINANCE NO. 9334**

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 4 AND 5, BLOCK 1, REARRANGEMENT OF LENROOTS ADDITION TO LEONARD J. PEKKALA AND BROOKE D. PEKKALA, HUSBAND AND WIFE, FOR CONSIDERATION OF \$1,600, PAYABLE TO GENERAL FUND 100, AGENCY 700, ORG. 1418, OBJ. 4640.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby conveys by quit claim deed its right, title and interest in and to real estate located in St. Louis County, Minnesota, hereinafter described to Leonard J. Pekkala, Jr. and Brooke D. Pekkala, husband and wife, for a consideration of \$1,600 plus closing costs, said amount to be deposited in the General Fund 100-700-1418-4640, subject to conditions set forth in Public Document No. 97-0609-24 on file in the office of the city clerk:

Lots 4 and 5, Block 1, Rearrangement of Lenroots Addition.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: July 21, 1997)

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

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

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 9, 1997  
Approved June 9, 1997  
GARY L. DOTY, Mayor

- - -

**ORDINANCE NO. 9333**

BY COUNCILOR KEENAN:

AN ORDINANCE AMENDING ARTICLE IX OF CHAPTER 2 OF THE CITY CODE, RELATING TO THE PARK AND RECREATION BOARD.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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The city of Duluth does ordain:

Section 1. That Section 2-43 of the Duluth City Code, 1959, is hereby amended to read as follows:

Sec. 2-43. Created.

In accordance with Section 27 of the City Charter, there is hereby created a nonsalaried commission, to be known as the parks and recreation commission of the city of Duluth.

Section 2. That Section 2-44 of the Duluth City Code, 1959, is hereby amended to read as follows:

Sec. 2-44. Composition; appointment; qualifications and terms of members generally; filling vacancies.

The parks and recreation commission shall consist of 15 voting and three nonvoting members, who shall be appointed by the mayor, subject to the approval of the council. The voting membership shall be comprised of one resident of each of the nine planning districts in the city, two at large members, two members with formal education in recreation who are employed in that field, one member who works with recreation programs and facilities as a staff member in the community schools program and one member with formal education in land management who is employed in that field; provided that those persons who are members of the commission on the effective date of this ordinance shall be allowed to complete their terms. Each voting member shall be a resident of the city of Duluth, except that the recreation and land management professionals and the community schools representative may either be residents of the city or work in the city. All appointments of voting members shall be for terms of three years, except such appointments as may be made for the remainder of expired terms or to provide for staggered terms. The nonvoting membership shall be comprised of one Duluth City Council member, one Duluth school board member and one St. Louis County commissioner. Such nonvoting members shall be recommended for appointment by their respective governmental bodies and shall serve for indefinite terms. Vacancies caused by death, resignation or otherwise shall be filled by the mayor only for the unexpired terms, subject to approval of the city council, in the same manner as for initial appointments. Members shall be eligible for reappointment. The term of any member of the commission shall be deemed vacant upon failure to attend two consecutive meetings or three meetings in a year unless advance notice is given to the president of the commission and such nonattendance resulted from justifiable cause. The city shall provide one parks and recreation staff member and one public works staff member to assist the commission in carrying out its responsibilities.

Section 3. That Section 2-45 of the Duluth City Code, 1959, is hereby amended to read as follows:

Sec. 2-45. Time limitation on making appointments and filling vacancies; oath of members.

Appointments to the parks and recreation commission shall be made by the mayor within 30 days after this Section shall take effect, and vacancies shall be filled by the mayor within 30 days after the occurrence of such vacancies. Every appointee under this Article, before entering upon the duties of his or her office, shall make and file with the city clerk an oath or affirmation to support the Constitution of the United States and of the state of Minnesota, and to perform faithfully, honestly and impartially the duties of his or her office, as required by Section 28 of the Charter. Any appointee who shall fail or neglect



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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to make or file such oath or affirmation within ten days after notification of appointment shall be deemed to have refused to accept such appointment.

Section 4. That Section 2-46 of the Duluth City Code, 1959, is hereby amended to read as follows:

Sec. 2-46. Election of officers; minutes and records; annual report.

Within ten days after the making and filing of the oath prescribed by this Article, the parks and recreation commission shall meet and elect a president, a vice president and a secretary, who may be a member of such commission. The commission may request the mayor to designate a member of the civil service personnel of the department of public recreation to serve as secretary of the commission. Upon receipts of such request, the mayor shall make such designation. All minutes and records of the commission shall be public records, copies thereof shall be filed in the office of the city clerk and shall be open to inspection during the established business hours of the city. The commission shall file an annual report with the city clerk not later than 30 days following the end of the preceding fiscal year.

Section 5. That Section 2-47 of the Duluth City Code, 1959, is hereby amended to read as follows:

Sec. 2-47. Adoption of rules and regulations; meetings generally.

For the conduct of its business the parks and recreation commission may adopt such rules and regulations as are not inconsistent with this Article. The commission shall hold at least one regular meeting each month and shall fix the date of such meetings. Special meetings may be called by the president of the commission and shall be called upon the written request of at least eight voting members of the commission. All meetings of the commission shall be public.

Section 6. That Section 2-48 of the Duluth City Code, 1959, is hereby amended to read as follows:

Sec. 2-48. Duties--conducting studies and making recommendations to mayor and city council.

In order to explore and to determine the most advantageous use of public owned property for the purpose of public recreation, the parks and recreation commission shall make such studies as it shall deem best and submit the result of such studies, together with its written recommendations thereon, to the mayor and the city council; and thereupon the mayor and the city council shall, as soon as may be reasonably possible or practicable, dispose of such recommendations in such manner and to the extent permissible under the Charter of the city or any applicable statute.

Section 7. That Section 2-49 of the Duluth City Code, 1959, is hereby amended as follows:

Sec. 2-49. Same--same--Access to city documents.

In conducting such studies, the parks and recreation commission shall be afforded ready access to all pertinent city documents relating to city recreational facilities as now or hereafter to be carried on by the city.

Section 8. That Sections 2-50 and 2-51 of the Duluth City Code, 1959, are hereby repealed.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Section 9. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 20, 1997)

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

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

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 9, 1997  
Approved June 9, 1997  
GARY L. DOTY, Mayor

**OFFICIAL PROCEEDINGS**

Special meeting of the Duluth City Council held on Monday, June 16, 1997, 7:15 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: Keenan -- 1

- - -

**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0616-01 The following submitting communications pertaining to proposed special use permit for residential care permit (Vedder)(97-0462R): (a) Kathryn J. and Wilfred C. Anderson; (b) Mary V. Carey. -- Received

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**OPPORTUNITY FOR CITIZENS TO BE HEARD**

Tom Paradice, representing FIGHT, spoke against a living wage ordinance for Duluth. He stated that adopting such an ordinance will increase taxes in the city and drive business away.

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**MOTIONS AND RESOLUTIONS**

Resolution 97-0534, by Councilor Talarico, awarding contract to Letourneau & Sons, Inc., for sewer main repairs in Grand Avenue in accordance with specifications on its low specification bid of \$188,381.50, was introduced for discussion.

Councilor Talarico explained that this resolution awards a contract to do the storm sewer repair on Grand Avenue between 63rd Avenue West and 93rd Avenue West. He continued saying that MN/Dot will be doing an overlay of Grand Avenue starting August 1, and the city wants to do the underground work before that so they do not have to tear up the new road at a later date.

Councilors Hales and Bohlmann requested that the city put up the proposed traffic lights on Grand Avenue that have been requested by the neighborhood at the same time Grand Avenue is under construction.

Resolution 97-0534 was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that Letourneau & Sons, Inc., be and hereby is awarded a contract for sewer main repairs in Grand Avenue for the sewer division in accordance with specifications on its low specification bid of \$188,381.50, terms net 30, FOB job site, payable out of Sewer Fund 530, Dept./Agency 500, Org. 0505, Obj. 5530.

Resolution 97-0534 was unanimously adopted.

Approved June 16, 1997

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 7:30 p.m.

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

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, June 23, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: Councilor Talarico -- 1

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0623-01 Michael E. Sternberg, et al. (ten signatures), resubmitting petition for reclassification from R-2 to C-2 portions of Blocks 14 and 23, Hazelwood Addition to Oneota. -- Assessor

97-0623-02 Jerald and Camille Wolk submitting petition to vacate alley adjacent to Lots 19-23 of Block 35 of Gary First Division. -- Assessor

97-0623-10 The following submitting communications pertaining to proposed special use permit for residential care facility (Vedder)(97-0462R): (a) Cindy Johns Giesen; (b) Suzanne Vedder. -- Received

97-0623-03 The following submitting communications pertaining to proposed living wage policy (97-0338R): (a) Duluth Area Chamber of Commerce; (b) Ken Nebel; (c) United Steelworkers of America, Local Union No. 1938. -- Received

97-0623-11 The following submitting communications pertaining to the proposed temporary on sale intoxicating liquor license for Northland Country Club (97-0564R): (a) Duluth Area Liquor Association; (b) Matthew Moore. -- Received

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**REPORTS OF OFFICERS**

97-0623-04 Engineering division submitting June, 1997, monthly project status report. -- Received

- - -

**REPORTS OF BOARDS AND COMMISSIONS**

97-0623-05 Board of zoning appeals minutes of May 27, 1997, meeting. -- Received

97-0623-06 Heritage preservation commission minutes of April 9, 1997, meeting. -- Received

97-0623-07 Neighborhood advisory council minutes of May 27, 1997, meeting. -- Received

97-0623-08 Planning commission minutes of: (a) April 23, 1997; (b) May 13, 1997; (c) May 28, 1997, meetings. -- Received

97-0623-09 Sanitary sewer board of WLSSD minutes of June 2, 1997, meeting. -- Received

97-0623-12 Spirit Mountain recreation area authority fiscal year 1998 budget proposal. -- Received

- - -

**REPORTS OF COUNCILORS**

President Hardesty presented Councilor Wheeler with a plaque recognizing his term on the city council.

Councilor Wheeler expressed appreciation for the opportunity to serve the citizens of Duluth.

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**RESOLUTIONS TABLED**

Councilor Rapaich moved to remove Resolution 97-0357, authorizing an agreement with Foth and Van Dyke and Associates for providing professional services to the city of Duluth in connection with the evaluation of the efficiency of the solid waste recyclables collection system

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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in Duluth in an amount not to exceed \$25,000, from the table, which motion was seconded and unanimously carried.

Councilor Keenan stated that he is not supportive of this expenditure and noted that \$10,000 of it is being taken from the council budget.

Councilor Prettner Solon questioned whether a rumor she heard that the largest local hauler is contemplating moving operations out of Duluth.

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

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Councilor Hogg moved to remove Resolution 97-0383, appointing \_\_\_\_\_ to the civil service board replacing Mary Peterson, from the table, which motion was seconded and carried upon the following vote:

Yeas: Councilors Hales, Hogg, Keenan, Rapaich and Wheeler -- 5

Nays: Councilors Bohlmann, Prettner Solon and President Hardesty -- 3

Absent: Councilor Talarico -- 1

Councilor Bohlmann stated that there are excellent individuals that are either candidates, or spouses of candidates for Councilor Wheeler's seat, that could be considered. She further noted that the personnel committee is split three ways on its recommendation, with Councilor Rapaich supporting a selection at this time, Councilor Wheeler was absent and that she supports tabling the resolution for one week.

Councilor Hogg reviewed the status of interviews and noted that seven have already been interviewed. He encouraged the council to vote on the resolution at this time.

Councilor Hales moved to table the resolution for one week, which motion was seconded and failed upon the following vote:

Yeas: Councilors Bohlmann, Hales and President Hardesty -- 3

Nays: Councilors Hogg, Keenan, Prettner Solon, Rapaich and Wheeler -- 5

Absent: Councilor Talarico -- 1

Councilor Hogg moved to insert the name "Patrick Spott," which motion was seconded and discussed.

Councilor Bohlmann stated that she will not support this because Mr. Spott's spouse is a candidate to replace Councilor Wheeler and whether it is legal or not, if she is chosen it will give the appearance of a conflict of interest which should be avoided.

Councilor Hogg's motion carried upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Absent: Councilor Talarico -- 1

Resolution 97-0383 was adopted as follows:

BY COUNCILOR BOHLMANN:

RESOLVED, that the city council hereby appoints Patrick Spott to the civil service board for the term expiring May 1, 1999, replacing Mary Peterson.

Resolution 97-0383 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

- - -

Councilor Prettner Solon moved to remove Resolution 97-0462, granting a special use permit to Suzanne Vedder for a residential care facility on property located at 2140 Woodland Avenue, from the table, which motion was seconded and unanimously carried.

Councilor Prettner Solon reviewed the background relative to this group home at this location and what this change allows. She further noted that she supports this resolution, but that the rest of the planning committee does not. .

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

Sue Lyons read a letter from Edith Mary Jordet about concern that this area remain single family homes; and she expressed her own specific concern is the perception that property values could possibly go down with this sort of operation.

Thomas Malterer expressed concern about traffic safety at this location.

Councilor Hogg, noting that he is speaking for the majority of the committee, said there should be a good reason to make an exception to the zoning, which has not yet been stated. He noted that it is presently legal to operate a residential care facility with six residents at this location.

Councilors Bohlmann, Hales, Keenan and Wheeler voiced support for the neighbors and concern over the expansion from six to ten residents.

Councilor Prettner Solon agreed that this type of special use is allowed in the current zoning for the area, that there is a need for this type of residence and that this, in itself, will not produce a property value reduction.

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

Resolution 97-0462 failed upon the following vote (Public Document No. 97-0623-26):

Yeas: Councilor Prettner Solon -- 1

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

Absent: Councilor Talarico -- 1

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### **MOTIONS AND RESOLUTIONS**

BY COUNCILOR WHEELER:

RESOLVED, that the operation budget for the fiscal year May 1, 1997, to April 30, 1998, in the amount of \$2,934,665 for the Spirit Mountain recreation area authority is hereby approved.

Resolution 97-0539 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

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

WHEREAS, the city desires to assist the Duluth Convention and Visitors Bureau in stabilizing their finances.

NOW, THEREFORE, BE IT RESOLVED, that \$59,234 additional funds will be allocated to the Duluth Convention and Visitors Bureau for cash flow and fund stabilization in 1997 beyond the \$749,600 already accorded by contract, this source coming from the fund balance in the fund.

BE IT FURTHER RESOLVED, that contributions to Spirit Mountain and the DECC be adjusted to \$88,100 and \$552,200 respectively, to reflect the changes in cost allocation charges.

BE IT FURTHER RESOLVED, that \$120,000 of fund balance dedicated to capital improvements be transferred to Capital Projects Fund 450 for tourism related improvements.

Resolution 97-0544 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Approved June 23, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

RESOLVED, that the Duluth City Council hereby approves Laws of Minnesota 1997, Chapter 231, Article 2, Section 53.

RESOLVED FURTHER, that the city clerk is directed to file with the secretary of state the certificate required by Minnesota Statutes, Section 645.021, Subdivision 3, to complete the approval process.

Resolution 97-0555 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Sea Service of Superior, Wisconsin, be and hereby is awarded a contract for furnishing and delivering tugboat, barges, work boat, sand and four person crew for the Fourth of July fireworks shoot in accordance with specifications on its low specification bid of \$6,310.13, terms net, FOB job site, payable out of General Fund 100, Dept./Agency 015, Organization 2030, Object SP06.

Resolution 97-0550 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Traffic Control Corporation be and hereby is awarded a contract for furnishing and delivering a traffic controller cabinet and accessories for the traffic operations division in accordance with specifications on its low specification bid of \$14,688.48, terms net 30, FOB destination, payable out of Permanent Improvements Fund 411, Dept./Agency 035, Organization 2163, Object 5530.

Resolution 97-0551 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 1997, subject to departmental approvals and the payment of sales and property taxes:

Shotz Bar, Inc. (Shotz Bar), 1321 Commonwealth Avenue, with Judith Gautsch, 100 percent stockholder, transferred from Balkan Inn, Inc. (Balkan Inn), same address.

Resolution 97-0562 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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to departmental approvals and a \$400 application fee:

Northland Country Club (Brett Hull Shootout), 3901 East Superior Street, for July 12-13, 1997, with Robert Mathias, manager.

Resolution 97-0564 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places in the areas on First Street between Third and Fourth Avenues West and First and Second Avenues West on July 11, 1997, 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 and that all outside drinking cease at 12:30 a.m.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 97-0565 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses subject to departmental approvals:

Mr. D's MGD softball tournament, Wheeler Field, for July 12-13, 1997, with Darrell Eckenberg, manager.

Duluth Softball Player's Association (USSSA Men's B World NIT), Wheeler Field, for July 19-20, 1997, with John Vaydich, manager.

Copasetic Classic, Wheeler Field, for July 26-27, 1997, with Paul King, manager.

Resolution 97-0566 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that E.F. Johnson Company be and hereby is awarded a contract to supply portable and mobile radios and accessories to the police department for approximately \$9,225 in accordance with specifications on its proposal and referencing the state of Minnesota bid for Contract No. 411933, terms net 30, FOB destination, \$7,700 payable out of Capital Fund 450, Agency 015, Organization 2007, Object V701 and \$1,525 payable out of Capital Fund 450, Agency 015, Organization 2007, Object V702.

Resolution 97-0570 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

WHEREAS, copies of said applications were also filed with the city of Duluth as required by



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Minnesota Statutes 349.213, Subdivision 2, and were investigated by the Duluth police department and reviewed and approved by the Duluth lawful gambling commission; and

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

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

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
1. Lester Park Hockey Association	O'Gilby's	May 29, 1997
2. Congdon Park Hockey Association	Twins Bar Bellows	June 3, 1997

Resolution 97-0571 was unanimously adopted.  
Approved June 23, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

WHEREAS, the following organizations has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Western Area Business and Civic Club 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 97-0580 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

PK & JS, Inc. (Twins Bar), 501 East Fourth Street, for July 25, 1997, with the music ceasing at 11:00 p.m. and the serving ceasing at 11:30 p.m.

Wizner Company (Norman's Bar), 113 West First Street, for July 11, 1997 (rain date July 12, 1997), with the music and serving ceasing at 11:00 p.m.

LW Duluth, Inc. (Pioneer Bar), 323 West First Street, for July 11, 1997 (rain date July 12, 1997), with the music and serving ceasing at 11:00 p.m.

Resolution 97-0582 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of stock of the following on sale wine license and on sale nonintoxicating malt liquor license for the period ending August 31, 1997, and April 30, 1998, subject to departmental approvals and the payment of sales and property taxes:

Lake Avenue Cafe, Inc. (Lake Avenue Cafe), 394 Lake Avenue South, transferred from Lake Avenue Cafe, Inc. (Lake Avenue Cafe), same address, with James Patrick Cross, president and 50 percent stockholder and Mary Ann Immerfall, secretary and 50 percent stockholder.

Resolution 97-0583 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

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

COMMISSION ON AGING

Judy Greene and Janith D. Jacobson for terms expiring July 1, 1999.

Resolution 97-0516 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

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

DULUTH AIRPORT AUTHORITY

Richard R. Burns and Robert Heimbach for terms expiring July 1, 2000.

Resolution 97-0517 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

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

DULUTH TRANSIT AUTHORITY

Mary Jacobson (Superior, Wisconsin) and Scott A. Welles (at large) for terms expiring June 30, 2000.

Resolution 97-0518 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

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

HERITAGE PRESERVATION COMMISSION

Dale W. Lucas for a term expiring May 31, 2000, replacing Patrice Martin.

Resolution 97-0519 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Approved June 23, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

PARKING COMMISSION

Steven G. LaFlamme (at large), Ryan E. Mears (District 2) and Neill Atkins (District 4) for terms expiring July 1, 2000.

Resolution 97-0520 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

SPIRIT MOUNTAIN RECREATION AREA AUTHORITY

David M. Gaddie, Mary J. Olson, Stephen Scherer and Robin K. Tellor for terms expiring June 30, 2000.

Resolution 97-0521 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0522, by Councilor Bohlmann, confirming reappointment of Joanne Line to the sanitary sewer board of WLSSD, was introduced for discussion.

Councilor Hogg requested that the council receive a report from Ms. Line on the WLSSD and moved to table the resolution until a meeting for that purpose can be scheduled, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR BOHLMANN:

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

COMMISSION ON AGING

Joseph J. Devore for a term expiring July 1, 1999, replacing Marguerite Kinetz.

Stephen C. Peterson for a term expiring July 1, 1999, replacing Duane Timo.

Resolution 97-0524 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

COMMISSION ON DISABILITIES

Marilynn Norenberg for a term expiring November 1, 2000, replacing Dorothy Turnbloom who resigned.

Resolution 97-0525 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0526, by Councilor Bohlmann, confirming appointment of Gary Kelleher replacing Monte Wittmann and reappointment of Philip Rolle to the Duluth state convention center administrative board, was introduced for discussion.

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

Councilor Bohlmann moved to table Resolution 97-0526(a), confirming the appointment of Gary Kelleher to the Duluth state convention center administrative board, for an interview, which motion was seconded and unanimously carried.

- - -

Resolution 97-0526(b) was adopted as follows:

BY COUNCILOR BOHLMANN:

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

DULUTH STATE CONVENTION CENTER ADMINISTRATIVE BOARD

Philip Rolle for a term expiring June 30, 2000.

Resolution 97-0526(b) was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0527, by Councilor Bohlmann, confirming appointment of Margaret Thomas to the human rights commission replacing Kent Lundahl, was introduced for discussion.

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

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BY COUNCILOR BOHLMANN:

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

LIBRARY BOARD

Dean Casperson for a term expiring June 1, 1999, replacing James Berry who resigned.

Terese M. Tomanek for a term expiring June 1, 2002, replacing Mary Ann Houx.

Resolution 97-0528 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0540, by Councilor Bohlmann, confirming appointment of Gary Gange to the Duluth airport authority replacing Joseph Lasky, was introduced for discussion.

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

- - -

BY COUNCILOR BOHLMANN:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Kristine Rhodes for a term expiring March 1, 2000, replacing Willie Curry.

Resolution 97-0578 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 97-0623-13, to the neighborhood matching grants fund agreements with the Klang Park renovation committee and the Park Point Community Club, extending the term of the said agreement for an additional six month period at no change in the projects' cost.

Resolution 97-0533 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the Minnesota housing finance agency, state of Minnesota (MHFA), has been authorized to undertake a program to provide loans to property owners for the purpose of housing rehabilitation; and

WHEREAS, the housing and redevelopment authority of Duluth, Minnesota (HRA), has developed an application as an administering entity for the MHFA rehabilitation loan programs which is on file with the city clerk as Public Document No. 97-0623-14; and

WHEREAS, HRA has demonstrated the ability to perform the required activities of the MHFA loan programs.

NOW, THEREFORE, BE IT RESOLVED, that HRA is hereby authorized to make application to the MHFA for a grant of funds pursuant to the MHFA rehabilitation loan programs.

BE IT FURTHER RESOLVED, that HRA is hereby authorized as an entity to be charged with the administration of funds made available through the MHFA rehabilitation loan programs in the city of Duluth, Minnesota.

Resolution 97-0541 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth, Minnesota, hereinafter referred to as the city, as authorized by Resolution 93-0800, passed on October 4, 1993, entered into an agreement with North Star Community Development Corporation (NSCDC), Inc., Duluth, Minnesota, hereinafter referred to as the agency, whereby the agency agreed to operate and administer the HUD funded NSCDC revolving loan fund project to be paid for out of 1992 Federal Program Fund 262 - community development - NSCDC project, Account No. 6811; and

WHEREAS, Amendment No. 1 to the agreement was authorized by city council Resolution 94-1066, passed on December 19, 1994; and

WHEREAS, Amendment No. 2 to the agreement was authorized by city council Resolution 95-1035, passed on November 27, 1995; and

WHEREAS, Amendment No. 3 to the agreement was authorized by city council Resolution 96-0949, passed on December 16, 1996; and

WHEREAS, both parties desire to further amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute Amendment No. 4, on file with the city clerk as Public Document No. 97-0623-15, to the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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HUD funded NSCDC revolving loan fund program agreement which extends said agreement to the 30th day of June, 1998.

Resolution 97-0542 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of that portion of Washington Avenue on the southeast corner of East First Street and Seventh Avenue East legally described as: That portion of Washington Avenue located southerly of the southerly right-of-way line of East First Street extended and easterly of the easterly right-of-way line of Seventh Avenue East extended; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its June 10, 1997, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of that portion of Washington Avenue on the southeast corner of East First Street and Seventh Avenue East described above, and as more particularly described on Public Document No. 97-0623-16, retaining an easement for the Vermilion Trail memorial until such time as the memorial is relocated to a site approved by the Duluth heritage preservation commission.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of Washington Avenue on the southeast corner of East First Street and Seventh Avenue East to be vacated and the easement being retained.

BE IT FURTHER RESOLVED, that upon presentation of proof to the staff of the city planning commission that such relocation has been accomplished, said planning commission shall notify the city clerk who shall record with such register of deeds and/or the registrar of titles evidence that such relocation has been accomplished and said condition fulfilled.

Resolution 97-0546 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the alley legally described as: Alley adjacent to Lots 21 through 26, Block 8, Ironton, Fourth Division; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its June 10, 1997, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the alley described above and as more particularly described on Public Document No. 97-0623-17.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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

Resolution 97-0547 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, Arrowhead Development Corporation has submitted to the city council a request to amend a special use permit issued pursuant to Resolution 95-0892 approved October 16, 1995, for a low density planned development on property described as the plat of Maple Ridge and located along the west side of Blackman Avenue, south of Rice Lake Road, 305 feet north of Willow Street and said permit application was duly referred to the city planning commission for a study, report and public hearing; and

WHEREAS, Arrowhead Development wishes to reduce the number and the size of the structures and units within the low density planned development; and

WHEREAS, the planning commission has conducted a review and hearing and finds that appropriate safeguards will exist to protect the comprehensive plan to conserve and to protect property values in the neighborhood if the conditions set forth herein are observed.

NOW, THEREFORE, BE IT RESOLVED, that the special use permit as described in Resolution 95-0892 is hereby amended to allow for a reduction in the number and size of townhouse units to be developed in the plat of Maple Ridge on the following conditions:

(a) That the project be developed in accordance with plans on file in the office of the city clerk as Public Document No. 97-0623-18;

(b) That the building permits for Phase II of the project, as shown on the plans described in paragraph (a) above, shall not be issued prior to improvement of Como Avenue north of Willow Street to standards specified by the city engineer, or adequate provisions for handling traffic created by Phase II shall have been made and approved by the city council by separate resolution.

Resolution 97-0548 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to reclassify from conservation to nonconservation and to offer for sale the following tax forfeited parcels now withheld from sale in conservation:

<u>File #.</u>	<u>Applicant Name</u>	<u>Legal Description</u>	<u>Location</u>
97031	St. Louis County	Lots 1-5 and 17-22, Block 101, Home Park Division (10-2260-7850, 7860, 7870, 7880, 7890, and 8010)	Between Perry and Heard Streets and 104th and 105th Avenues West (Gary New Duluth)

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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97037	St. Louis County	Lots 8 and 12, Block 52, Gary First Division (10-1800-13740, 13780)	East side of 96th Avenue West between McGonagle and House Streets (Gary New Duluth)
97054	George Jezierski	Lot 21, Block 6, Lyman Park Division (10-3130-1220)	North side of Batavia Street between Ceylon and Anson Avenues (Lincoln Park)
97074	St. Louis County	Lots 61, 63, Block 165, Duluth Proper Third Division (10-1350-14410, 14420)	Upper side of 11th Street and west side of Fourth Avenue East (Central Hillside)

BE IT FURTHER RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to reclassify and reconvey a free conveyed parcel from the city of Duluth and make the parcel available for sale:

97055	Greg Francisco	Lot 10, rearrangement of part of outlot K, Morgan Park (10-3304-100)	Upper side of Falcon Street between 84th and 85th Avenues West (Morgan Park)
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Resolution 97-0559 was unanimously adopted.  
Approved June 23, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, Section 35-9.1 authorizes the parks and recreation department to charge users' fees for their programs, subject to city council approval; and

WHEREAS, the senior citizen van rates were last set in 1989 in Resolution 89-0243 at 25¢ for a one way trip and 50¢ for a round trip; and

WHEREAS, presently senior vans operating for St. Louis County have rates of 50¢ for a one way trip and \$1 for a round trip; and

WHEREAS, the senior programs advisory board has examined the city's senior van rates and has recommended an increase to 50¢ for a one way trip and \$1 for a round trip.

NOW, THEREFORE, BE IT RESOLVED, that the city parks and recreation department is hereby authorized to charge a user's fee for city senior transportation vans of \$1 for a round trip ride to a destination or 50¢ for a one way trip.

FURTHER RESOLVED, that Resolution 89-0243 is rescinded in its entirety.

Resolution 97-0523 was unanimously adopted.  
Approved June 23, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the city of Duluth hereby accepts a donation of nine pieces of skateboard apparatus from Ben and Sharyl Gurovitsch and their company, Freestyle of Duluth, Inc., for use



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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at the skateboard park at the foot of Spirit Mountain. Said apparatus is described in the description in Exhibit A (Public Document No. 97-0623-25).

RESOLVED FURTHER, that the city clerk is directed to send a certified copy of this resolution to Ben and Sharyl Gurovitsch as a message of thanks for their donation.

Resolution 97-0543 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to modify City Contract No. 17708 to accept an additional \$3,000 from the Minnesota department of economic security to operate the Title V senior community service employment program from July 1, 1996, through June 30, 1997. Total grant amount is \$98,660. A copy of this modification shall be on file in the city clerk's office as Public Document No. 97-0623-19.

FURTHER RESOLVED, that monies received pursuant to this grant shall be deposited in Fund 271, Budget Item 6322.

Resolution 97-0532 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Stout Mechanical, Inc., be and hereby is awarded a contract for extending steamline to the Duluth fire hall headquarters for the Duluth Steam District No. 1 in accordance with specifications on its low specification bid of \$51,700, terms net 30, FOB job site, payable out of Steam District No. 1 Fund 540, Dept./Agency 920, Organization 1490, Object 5530.

Resolution 97-0512 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that U.S. Filter/Waterpro, Inc., be and hereby is awarded a contract for furnishing and delivering meter parts for the water and gas department in accordance with specifications on its low specification bid of \$6,317.15, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 97-0549 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Goodin Co. of Duluth be and hereby is awarded a contract for furnishing and delivering miscellaneous quantities and sizes of water pipe couplings, valves and mechanical joints for the water and gas department in accordance with specifications on its low specification bid of \$74,964.76, terms net 30, FOB Duluth, payable out of Water Fund 510, Dept./Agency

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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0900, Organization 0540, Object 5227.

Resolution 97-0552 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that U.S. Filter/Waterpro be and hereby is awarded a contract for furnishing and delivering 40 one inch, two inch and three inch polyethylene valves for the water and gas department in accordance with specifications on its low specification bid of \$5,094.53, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 97-0553 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Arrowhead Security Systems be and hereby is awarded a contract for furnishing and delivering card access security system for the water and gas building at 414 West First Street in accordance with specifications on its low specification bid of \$11,275.69, terms net 30, FOB job site, payable out of Water and Gas Funds 510/520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 97-0554 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Contract Tile & Carpet, Inc., be and hereby is awarded a contract for recarpeting the first floor of the water and gas office building for the water and gas department in accordance with specifications on its low specification bid of \$11,498, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533, Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 97-0568 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Como Philgas Company be and hereby is awarded a contract for furnishing and delivering 80,000 gallons of liquid propane for the water and gas department in accordance with specifications on its low specification bid of \$31,600, terms net, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0545, Object 5213.

Resolution 97-0572 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

WHEREAS, the city of Duluth desires to improve various streets in Lower Lakeside (City Job No. 8982RS97); and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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WHEREAS, the city desires to hire a consulting engineer to provide engineering services for preliminary survey and subsurface investigation; and

WHEREAS, LHB Engineers and Architects have submitted a proposal for engineering services in connection with the first phase of this project which is on file in the office of the city clerk as Public Document No. 97-0623-20.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized to enter into an agreement with LHB Engineers and Architects to provide the city with engineering services as outlined in Public Document No. 97-0623-20.

BE IT FURTHER RESOLVED that the cost of said engineering services, not to exceed \$35,721, will be payable from Fund 440, Agency 038, Organization 9801, Object 5530.

Resolution 97-0535 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

WHEREAS, the city of Duluth desires to improve various streets in Upper Lincoln Park (City Job No. 8985RS97); and

WHEREAS, the city desires to hire a consulting engineer to provide engineering services for preliminary survey and subsurface investigation; and

WHEREAS, RREM, Inc., has submitted a proposal for engineering services in connection with the first phase of this project which is on file in the office of the city clerk as Public Document No. 97-0623-21.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized to enter into an agreement with RREM, Inc., to provide the city with engineering services as outlined in Public Document No. 97-0623-21.

BE IT FURTHER RESOLVED, that the cost of said engineering services, not to exceed \$27,400, will be payable from Fund 440, Agency 038, Organization 9804, Object 5530.

Resolution 97-0536 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

WHEREAS, the city of Duluth desires to improve various streets in Norton Park West (City Job No. 8983RS97); and

WHEREAS, the city desires to hire a consulting engineer to provide engineering services for preliminary survey and subsurface investigation; and

WHEREAS, Salo Engineering, Inc., has submitted a proposal for engineering services in connection with the first phase of this project which is on file in the office of the city clerk as Public Document No. 97-0623-22.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized to enter into an agreement with Salo Engineering, Inc., to provide the city with engineering services as outlined in Public Document No. 97-0623-22.

BE IT FURTHER RESOLVED, that the cost of said engineering services, not to exceed \$18,000, will be payable from Fund 440, Agency 038, Organization 9802, Object 5530.

Resolution 97-0537 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR HOGG:

WHEREAS, the city of Duluth desires to improve various streets in Upper Woodland East Two (City Job No. 8986RS97); and

WHEREAS, the city desires to hire a consulting engineer to provide engineering services for preliminary survey and subsurface investigation; and

WHEREAS, Seaway Engineering has submitted a proposal for engineering services in connection with the first phase of this project which is on file in the office of the city clerk as Public Document No. 97-0623-23.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized to enter into an agreement with Seaway Engineering to provide the city with engineering services as outlined in Public Document No. 97-0623-23.

BE IT FURTHER RESOLVED, that the cost of said engineering services, not to exceed \$39,870, will be payable from Fund 440, Agency 038, Organization 9805 Object 5530.

Resolution 97-0538 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Northland Constructors, Inc., be and hereby is awarded a contract for furnishing and delivering reconstruction of West Michigan Street from Seventh Avenue West to First Avenue West for the Duluth engineering department in accordance with specifications on its low specification bid of \$2,068,411.60, terms net 30, FOB jobsite, payable out of Permanent Improvement Fund 411 to be reimbursed by the public utility Water Fund 510 (\$102,654.10), public utility Sewer Fund 530 (\$37,861.95), public utility Steam Fund 540 (\$11,489.00) and municipal state aid of \$1,916,406.55.

Resolution 97-0556 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with LHB Engineers and Architects for professional design and contract administrative services in connection with the replacement of the retaining wall along Skyline Boulevard near the east branch of Merritt Creek, at a cost to the city of not to exceed \$85,000, which shall be payable from the permanent improvement fund, to be reimbursed from municipal state aid funds.

Resolution 97-0557 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that DSE, Inc., be and hereby is awarded a contract for construction of the 1997 city wide street patch for the engineering department in accordance with specifications on its low specification bid of \$446,205, terms net 30, FOB job site, \$211,152.50 payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2121, Object 5530 and \$235,052.50 payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2122, Object 5530.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Resolution 97-0558 was unanimously adopted.  
Approved June 23, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Duluth-Superior Blacktop be and hereby is awarded a contract for furnishing and delivering bituminous materials for the street maintenance division in accordance with specifications on its low specification bid of \$141,682.28, terms net 30, FOB pick up, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5232.

Resolution 97-0567 was unanimously adopted.  
Approved June 23, 1997  
GARY L. DOTY, Mayor

- - -

Resolution 97-0585, awarding contract to Leadcon, Inc., for 1997 sidewalk repairs in accordance with specifications on its low specification bid of \$356,184, and Resolution 97-0569, awarding contract to Hovland Masonry, Inc., for 1997 sidewalk repairs in accordance with specifications on its low specification bid of \$376,272, by Councilor Hogg, were introduced for discussion.

President Hardesty reviewed that Resolution 97-0585 is the low bidder, however, the contractor has no previous sidewalk construction experience. She stated that Resolution 97-0569 is the second lowest bidder and that the contractor does have sidewalk experience.

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

Ted Hovland, vice president of Hovland Masonry, elaborated on the history of the firm and noted that he has constructed sidewalks to city specifications since 1972. In conclusion, he requested the council to consider the experience of his firm and support Resolution 97-0569.

Sarah Summerfeld, president of Leadcon, Inc., reviewed her qualifications as a civil engineer, stating that her firm, while being in business for only a couple of years, has worked on numerous concrete repair and coating projects. She stated that her firm is qualified to do this project.

To Councilor Hogg's questioning, City Attorney Dinan reviewed the conditions for not accepting a low bid, as stated in the City Code.

Responding to Councilor Hogg, Public Works Director Richard Larson stated that even if the low bidder has no experience, he is confident that his staff can work successfully with the firm.

Councilor Hales expressed concern in awarding this contract to a low, inexperienced bidder, as was done a few years ago. She said she supports giving an inexperienced contractor a chance, but she has concerns that this firm will be unable to accomplish such a large project. She stated that the city engineering department recommends the experienced contractor.

Mr. Larson reviewed the procedure, and circumstances, that is followed if the city has to file a claim against the bond filed by the contractor.

Councilor Hogg noted that bonding for any contractor is in place. He stated concern that the city's attitude is that the low bid of an inexperienced contractor will never be accepted which results in the city not taking advantage of the benefits of the bidding process and discourages new, but qualified, contractors from participating.

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

Resolution 97-0585 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that Leadcon, Inc., be and hereby is awarded a contract for construction of the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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1997 city wide sidewalk repair for the engineering department in accordance with specifications on its low specification bid of \$356,184, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5298, Object 5530.

Resolution 97-0585 was adopted upon the following vote:

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

Nays: Councilors Bohlmann and Hales -- 2

Absent: Councilor Talarico -- 1

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute a supplemental agreement with the state of Minnesota under the Minnesota trails assistance program, under which agreement the city will receive \$4,500 to assist with maintenance of ski trails in the city during the 1996-97 winter season, which grant funds shall be deposited in General Fund 100-500-1920-4232.

Resolution 97-0575 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement, filed as Public Document No. 97-0623-24, with David J. Cole and Eve B. Cole, joint tenants, for the acquisition of a temporary easement for construction purposes over, under, across and through Lots 11, 12 and 13 of Block 18, Glen Avon First Division of Duluth for the purpose of reconstructing the intersection of Woodland Avenue and Snively Boulevard and relocating the Cole's driveway at that intersection.

Resolution 97-0579 was unanimously adopted.

Approved June 23, 1997

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following ordinances were read for the first time:

BY COUNCILOR RAPAICH

97-017 - AN ORDINANCE AMENDING THE OFF SALE HOURS OF SALE FOR INTOXICATING LIQUOR IN THE CITY OF DULUTH; AMENDING SECTION 8-17 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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BY COUNCILOR PRETTNER SOLON

97-015 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B TO C-5, PROPERTY LOCATED SOUTH OF CENTRAL ENTRANCE BETWEEN BLACKMAN AVENUE AND CLEARWOOD DRIVE (BRESNAN).

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR PRETTNER SOLON

97-016 - AN ORDINANCE TO RENAME PORTIONS OF 18TH STREET SOUTH AS HARBOR POINT CIRCLE (SINGER).

- - -

BY PRESIDENT HARDESTY

97-018 - AN ORDINANCE ADDING ARTICLE XXVI TO CHAPTER 2 OF THE DULUTH CITY CODE REQUIRING NOTHING LESS THAN A PRESCRIBED MINIMUM LEVEL OF COMPENSATION (A LIVING WAGE) BE PAID TO EMPLOYEES OF FINANCIAL ASSISTANCE RECIPIENTS OF THE CITY.

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BY COUNCILORS HOGG, PRETTNER SOLON, RAPAICH AND TALARICO

97-019 - AN ORDINANCE ADDING A NEW ARTICLE XXVI TO CHAPTER 2 OF THE CITY CODE REQUIRING THAT A PRESCRIBED MINIMUM LEVEL OF COMPENSATION (A LIVING WAGE) BE PAID TO EMPLOYEES OF FINANCIAL ASSISTANCE RECIPIENTS OF THE CITY AND DEDA.

The rules were suspended upon a unanimous vote to hear speakers on ordinances 97-018 and 97-019.

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At this time, 9:30 p.m., Councilor Hales left her seat.

- - -

Gareth Batss, Karl Strom, Bob Kosuth, Roger Cragan, Jerry Alander, Barb Koth, Alan Netland, Joel Sipress, Bob LaFlamme, Claire Kirch, Al Lafrevier, Melissa Taylor, Claudie Washington, representing NAACP, George Sundstrom representing Sheet Metal Workers Local 10, Lyman Brooks, representing the senior coalition, Erik Torch, Greg Gilbert and Erik Peterson, representing the living wage coalition which is comprised of 51 organizations, supported Ordinance 97-018 for the following reasons: it is an employer's market now, employees need this; businesses receiving a subsidy from the city should pay a living wage; this does not artificially raise wages; when a business prospers, employees do not necessarily prosper; the central labor body supports a living wage; the ordinance reflects the responsibility the city should take; \$7 is not morally a living wage; \$7.25 an hour is only \$15,000 a year if working full-time; this type of ordinance will attract business by demonstrating that Duluth is a progressive community; this issue will not go away until there is a meaningful living wage ordinance; the facts are there, Duluth can learn from other cities; the focus should be to assist current residents who work here now and not so much for the ones who may come here; able bodied persons can be eased off welfare by receiving a living wage; intelligent people are leaving Duluth because of the low wages offered; this will return taxpayer dollars back to taxpayers; a living wage is a right; the NAACP strongly supports a fair equitable living wage; city government has not suggested separating out the 1/3 of the people who are exempt from the federal minimum wage, Davis Bacon Act or Federal Contract Services Act, therefore why support Ordinance 97-019; inflation has increased faster than wages; this ordinance goes far to reduce poverty in this community; it is fair to require businesses that receive corporate welfare to pay a living wage; Ordinance 97-019 ignores the city's full responsibility and does nothing to achieve even its stated purpose, there are no meaningful enforcement provisions and it does not reflect what the citizens really want; Ordinance 97-018 requires a living wage when taxpayers' money is used, when the city purchases certain services or when the city acts as an employer of low wage workers.

Alan Kehr and Tom Paradice, representing FIGHT, opposed both ordinances for the following reasons: the city should not subsidize jobs through a living wage ordinance; Duluth must bring in new companies that pay higher average wages; reason and logic should be used in this matter.

Councilor Wheeler noted that while he will not be on the council to vote on this issue, he supports Ordinance 97-018, noting the need in the community for a strong living wage ordinance.

Councilor Hogg stated that while he supports Ordinance 97-019, there are some changes that he would like to see, such as in the areas of the \$50,000 exemption, the 2/3's requirement and that there needs to be a penalty provision.

Councilor Bohlmann expressed her concerns that Ordinance 97-019 does not adequately address the needs of a good living wage ordinance.

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The following ordinance was read for the second time:

BY COUNCILOR RAPAICH

97-014 (9336) - AN ORDINANCE ADDING A NEW SECTION 41-32 TO THE CITY CODE RELATING TO THE AWARD OF CONTRACTS NOT SUBJECT TO THE COMPETITIVE BIDDING PROCESS.

Councilor Hogg requested the administration to report at least quarterly as to the contracts that would be executed administratively, if the ordinance passes.

Councilor Bohlmann voiced objection to this ordinance stating she believes this authority should not be given to the administration by the council .

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

Yeas: Councilors Hogg, Keenan, Prettnner Solon, Rapaich, Wheeler and President Hardesty -- 6

Nays: Councilor Bohlmann -- 1

Absent: Councilors Hales and Talarico -- 2

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The meeting was adjourned at 10:59 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 9336**

BY COUNCILOR RAPAICH:

AN ORDINANCE ADDING A NEW SECTION 41-32 TO THE CITY CODE RELATING TO THE AWARD OF CONTRACTS NOT SUBJECT TO THE COMPETITIVE BIDDING PROCESS.

The city of Duluth does ordain:

Section 1. That a new Section 41-32 be added to the Duluth City Code, 1959, as amended, to read as follows:

Sec. 41-32. Contracts not subject to competitive bidding process.

The purchasing agent, with the approval of the administrative assistant, is authorized to award contracts not subject to the competitive bidding process that involve an expenditure of \$5,000 or less.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 3, 1997)

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



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Yeas: Councilors Hogg, Keenan, Prettnr Solon, Rapaich, Wheeler and President Hardesty -- 6

Nays: Councilor Bohlmann -- 1

Absent: Councilors Hales and Talarico -- 2

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 23, 1997  
Approved June 23, 1997  
GARY L. DOTY, Mayor

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, June 30, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0630-02 Jessie Meierhoff submitting communication regarding low bids, street improvement and assessments. -- Received

97-0630-03 The following submitting communications in favor of Kay Biga being selected to fill the vacancy in the second district council seat vacated by Councilor Wheeler (97-0531R): (a) Carman L. Bates; (b) Susan Doering (supported by 16 signatures); (c) Larry and Karen Johnson; (d) Jay L. Ott; (e) Barb Parks; (f) Galen S. Sundeen; (g) Steven and Linda Tyacke. -- Received

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**REPORTS OF OFFICERS**

97-0630-01 Building official submitting appeal of the board of zoning appeals' denial of a variance to allow St. Paul's Episcopal Church to create a 15 car parking area in a required front yard space at 1710 East Superior Street. -- Committee 2 (planning)

- - -

**OPPORTUNITY FOR CITIZENS TO BE HEARD**

Jessie Meierhoff read a statement (Public Document No. 97-0630-02) regarding the poor quality of construction work done on the improvement of 11th Street Alley between Ninth and Tenth Avenues East.

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**RESOLUTION TABLED**

President Hardesty moved to remove Resolution 97-0531, appointing \_\_\_\_\_ to fill the vacancy in the second district council seat, from the table, which motion was seconded and unanimously carried.

President Hardesty reviewed the names of all the nominees and suggested procedures outlined in a council letter by Jeffrey Cox, city clerk, which could be used to select the individual to fill the second district council seat.

After council discussion, the procedures were changed to allow for the top three candidates to advance to the third ballot.

There being no further discussion, paper balloting began.

The voting on Ballot No. 1 was as follows:

Councilor Bohlmann	.....	John Young
Councilor Hales	.....	Randy Jon Virta
Councilor Hogg	.....	Barbara Kirschling
Councilor Keenan	.....	Larry Sundberg
Councilor Prettner Solon	....	Kay Biga
Councilor Rapaich	.....	Kay Biga
Councilor Talarico	.....	Kay Biga
Councilor President Hardesty		Frank Jewel

All names from Ballot No. 1 were considered as nominees for Ballot No. 2.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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The voting on Ballot No. 2 was as follows:

Councilor Bohlmann . . . . . John Young  
Councilor Hales . . . . . John Young  
Councilor Hogg . . . . . Barbara Kirschling  
Councilor Keenan . . . . . Larry Sundberg  
Councilor Prettnner Solon . . . . Kay Biga  
Councilor Rapaich . . . . . Kay Biga  
Councilor Talarico . . . . . Kay Biga  
Councilor President Hardesty John Young

With a tie for the top three names on Ballot No. 2, all nominees were considered for Ballot No. 3

The voting on Ballot Nos. 3 - 14 was as follows:

Councilor Bohlmann . . . . . John Young  
Councilor Hales . . . . . John Young  
Councilor Hogg . . . . . John Young  
Councilor Keenan . . . . . Kay Biga  
Councilor Prettnner Solon . . . . Kay Biga  
Councilor Rapaich . . . . . Kay Biga  
Councilor Talarico . . . . . Kay Biga  
Councilor President Hardesty John Young

After some discussion on how to resolve the fact that no nominee has been able to receive a majority vote, Councilor Talarico moved "that the city clerk administer a coin toss, and the city attorney witness it, with Ms. Biga being represented by heads and Mr. Young as tails," which motion was seconded and unanimously carried.

The city clerk flipped a coin and the city attorney declared "tails" (Mr. Young) the winner.

Resolution 97-0531 was adopted as follows:

BY PRESIDENT HARDESTY:

WHEREAS, Second District Councilor David Wheeler has resigned his council seat effective June 29, 1997; and

WHEREAS, Section 4 of the Duluth City Charter requires the city council to fill a vacancy in a council seat by appointment of an eligible person to serve until the next municipal election;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby appoints John F. Young to fill the vacancy in the Second District council seat, effective immediately.

Resolution 97-0531 was unanimously adopted.

Approved June 30, 1997

GARY L. DOTY, Mayor

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**MOTIONS AND RESOLUTIONS**

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals:

Woodland Fast Pitch Association (Miller Genuine Draft Fastpitch), Anoka and Woodland Avenue, for July 12 and 13, 1997, with Shawn Hanson, manager.

Resolution 97-0588 was unanimously adopted.

Approved June 30, 1997

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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The meeting was adjourned at 9:25 p.m.

JEFFREY J. COX, City Clerk

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, July 14, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of council meetings held on December 2 and 16, 1996, were approved upon a unanimous vote.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0714-01 James William Barrett petitioning for concurrent use permit to run new septic mound system in the easement from Block 18, Lot 7 to Block 20, Lots 5, 4, 3 and 2. -- Planning commission

97-0714-02 Minnesota Aggregates, Inc., petitioning for conditional use certificate 50-111(f) for the waterfront property at 220 Garfield Avenue. -- Planning commission

97-0714-03 Minnesota state auditor submitting audit reports for the year ended December 31, 1996 for: (a) Duluth airport authority; (b) Duluth state convention center administrative board. -- Received

97-0714-38 Duluth Area Off Sale Liquor Association submitting communication pertaining to off sale hours of sale for intoxicating liquor (97-017-O). -- Received

97-0714-05 Duluth Builders' Exchange submitting communication pertaining to Hovland Masonry (97-0569R). -- Received

97-0714-06 Hovland Masonry, Inc., submitting request for 1977 sidewalk construction contract reconsideration (97-0569R). -- Received

97-0714-07 Seaway Port authority of Duluth submitting pooled indebtedness reporting forms and annual disclosure and tax increment district financial reporting forms for: (a) Airpark Industrial Park; (b) Rices Point Industrial for the year ended December 31, 1996. -- Received

97-0714-04 The following submitting communications pertaining to the proposed living wage ordinance (97-018-O): (a) CHUM; (b) Duluth Area Chamber of Commerce; (c) Duluth- Superior Monthly Meeting of the Religious Society of Friends; (d) Hillside Business Association; (e) Loaves & Fishes; (f) Kathleen McTavish; (g) Kenneth H. Nebel; (h) Jerrold M. Peterson; (i) St. Louis County Commissioners Bill Kron, Steve Raukar and Peg Sweeney; (j) Debra L. Taylor; (k) UNITE (Union of Needletrades Industrial and Textile Employees AFL-CIO CLC); (l) Whole Foods Coop; (m) Workers at Women's Transitional Housing Coalition (ten signatures). -- Received

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**REPORTS OF OFFICERS**

97-0714-08 Assessor submitting:

(a) Assessment roll levied to defray in full the expense of solid waste collection during the period March 1, 1996, to June 1, 1997, for which the licensed collector has not been reimbursed;

(b) Letters of sufficiency:

(1) To vacate the alley adjacent to Lots 19-23 of Block 35, Gary First Division;

(2) To reclassify from R-2 to C-2 the westerly 33-1/3 feet of Lot 3, Block 17, Hazelwood Addition to Oneota. -- Received

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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97-0714-09 Assistant city attorney submitting Corps of Engineers License DACW35-3-96-3002 covering mooring vessels which are part of the Trans Superior Yacht Race at Duluth vessel yard (U.S. North Pier), for a term beginning July 25, 1997, and ending August 2, 1997. -- Received

97-0714-10 Building official submitting appeal of the BZA decision to allow the erection of a 12 foot tall by eight foot wide pole sign on a two foot by four foot planter in an R-4 zoning district on property located at 12 East Fourth Street (Central Hillside Community Club and the city of Duluth). -- Committee 2 (planning)

97-0714-11 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling licenses (bingo and raffle) from St. Margaret Mary Church. -- Received

97-0714-12 Finance director submitting comprehensive annual finance report (CAFR) for the city of Duluth for the fiscal year ended December 31, 1996. -- Received

97-0714-13 Property manager submitting communication pertaining to Superior Steel's leasing of Minnesota Slip for the 1997 boating season to moor the Harvester on the north side of the wave attenuation wall at the southeast end of the slip, pursuant to Sec. 2-35 of the Duluth City Code. -- Mayor for execution

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### REPORTS OF BOARDS AND COMMISSIONS

97-0714-17 Board of review minutes of March 19, 1997, meeting. -- Received

97-0714-14 Citywide citizens advisory committee minutes of June 24, 1997, meeting. -- Received

97-0714-15 Civil service board minutes of June 6, 1997, meeting. -- Received

97-0714-16 Duluth airport authority: (a) Balance sheets for: (1) February 28; (2) March 31; (3) April 30, 1997; (b) Minutes of May 20, 1997, meeting. -- Received

97-0714-18 Duluth transit authority: (a) April 1997 income statement; (b) Minutes of May 14, 1997, meeting; (c) April 1997 financial statement summary. -- Received

97-0714-19 Housing and redevelopment authority of Duluth minutes of May 27, 1997, meeting. -- Received

97-0714-20 Planning commission minutes of June 10, 1997, meeting. -- Received

97-0714-21 Sanitary sewer board of WLSSD minutes of: (a) June 16; (b) June 23, 1997, meetings. -- Received

97-0714-22 Seaway Port authority of Duluth: (a) February 28, 1997, balance sheet; (b) Minutes of March 24, 1997, meeting; (c) March 1998 proposed budget format. -- Received

97-0714-23 Special assessment board minutes of June 10, 1997, meeting. -- Received

97-0714-24 Technical design advisory committee for DWMX-D minutes of: (a) April 1; (b) April 15; (c) May 20, 1997, meetings. -- Received

97-0714-25 Tree commission minutes of June 9, 1997, meeting. -- Received

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### RESOLUTIONS TABLED

Councilor Rapaich moved to remove Resolution 97-0357, authorizing an agreement with Foth and Van Dyke and Associates for providing professional services to the city of Duluth in connection with the evaluation of the efficiency of the solid waste and recyclables collection system in Duluth in an amount not to exceed \$25,000, from the table, which motion was seconded and unanimously carried.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Jim Borash stated that expenditure of these funds is unnecessary because the industry is doing just fine. He explained that since a study was done several years ago by Dan Krivit, several companies have consolidated which has resulted in route efficiencies and competitive rates. Mr. Borash added that new companies entering the market are also helping to keep the industry competitive.

Resolution 97-0357 was adopted as follows:

BY COUNCILOR RAPAICH:

RESOLVED, that the proper city officers are hereby authorized to enter into a professional services agreement with Foth & Van Dyke & Associates for the sum of not to exceed \$25,000 from General Fund 100-010-1101-5319 for a solid waste and recyclables collection system study, said agreement on file in the office of the city clerk as Public Document No. 97-0714-26.

BE IT FURTHER RESOLVED, that the city is hereby authorized to accept a grant of \$15,000 from WLSSD to reimburse partial project expenses related to the solid waste and recyclables system study. All revenue to be deposited in General Fund 100-010-1101-4251.

Resolution 97-0357 was adopted upon the following vote:

Yeas: Councilors Hogg, Prettner Solon, Rapaich, Talarico and President Hardesty -- 5

Nays: Councilors Bohlmann, Hales, Keenan and Young -- 4

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

Councilor Bohlmann moved to remove Resolution 97-0522, confirming reappointment of Joanne Line to sanitary sewer board of WLSSD, from the table, which motion was seconded and unanimously carried.

Resolution 97-0522 was adopted as follows:

BY COUNCILOR BOHLMANN:

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

SANITARY SEWER BOARD of the Western Lake Superior Sanitary District

Joanne Line for a term expiring July 1, 2000.

Resolution 97-0522 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

Councilor Bohlmann moved to remove Resolution 97-0526(a), confirming appointment of Gary Kelleher replacing Monte Wittmann to Duluth state convention center administrative board, from the table, which motion was seconded and unanimously carried.

Resolution 97-0526(a) was adopted as follows:

BY COUNCILOR BOHLMANN:

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

DULUTH STATE CONVENTION CENTER ADMINISTRATIVE BOARD

Gary P. Kelleher for a term expiring June 30, 2000, replacing Monte Wittmann.

Resolution 97-0526(a) was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

Councilor Bohlmann moved to remove Resolution 97-0527, confirming appointment of Margaret Thomas to human rights commission replacing Kent Lundahl, from the table, which motion was seconded and unanimously carried.

Resolution 97-0527 was adopted as follows:

BY COUNCILOR BOHLMANN:

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

HUMAN RIGHTS COMMISSION

Margaret L. Thomas for a term expiring March 1, 1998, replacing Kent Lundahl who resigned.

Resolution 97-0527 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

Councilor Bohlmann moved to remove Resolution 97-0540, confirming appointment of Gary Gange to Duluth airport authority replacing Joseph Lasky, from the table, which motion was seconded and unanimously carried.

Resolution 97-0540 was adopted as follows:

BY COUNCILOR BOHLMANN:

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

DULUTH AIRPORT AUTHORITY

Gary Gange for a term expiring July 1, 2000, replacing Joseph Lasky.

Resolution 97-0540 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

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**MOTIONS AND RESOLUTIONS**

BY COUNCILOR HOGG:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota (the city), as follows:  
Section 1. Findings.

1.01 The city council hereby determines that it is necessary and expedient to construct an additional level to the city's East Superior Street parking ramp (the project).

1.02 The following financing options are available to the city for the project:

(a) The city is authorized, pursuant to Minnesota Statutes, Section 465.71, Laws of Minnesota, 1977, Chapter 257, Section 4 and the City Charter, to lease real or personal property with an option to purchase under a lease purchase agreement and to enter into transactions whereby the lessor under such an agreement issues either certificates of participation or lease revenue bonds secured by rental payments under the lease;

(b) Further, the city is authorized, by Laws of Minnesota, 1977, Chapter 257, Section 3, to issue bonds for the acquisition, construction or improvement of automobile parking facilities which bonds are payable wholly from net revenues of the city's operations of on-street and off-street parking facilities.

1.03 The city hereby finds that it is necessary and expedient and in the best interest of the residents of the city that the city enter into a financing arrangement to provide financing for the project in the approximate amount of \$875,000.

Section 2. Authorization to proceed.



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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The city council hereby authorizes the city staff to work with the city's financial advisor, if necessary, and bond counsel to negotiate proposed terms for such financing, utilizing the financing option which is most economically feasible.

Section 3. Terms and conditions.

The terms and conditions of the financing shall be approved by subsequent resolution of the city council.

Section 4. Funds and accounts.

4.01 The city hereby creates a separate construction account within the capital improvement fund to account for the payment of costs of construction of the project.

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

Resolution 97-0577 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the city treasurer is hereby authorized to accept, on behalf of the city, gifts of \$5,000 or less made to the city.

RESOLVED FURTHER, that such gifts shall be deposited in appropriate accounts and used only in accordance with the expressed wishes of the donor.

RESOLVED FURTHER, that the amount and purpose of all such gifts accepted by the treasurer shall be communicated in writing by the treasurer to the city council on an annual basis.

Resolution 97-0594 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the proper city officers hereby authorize Amendment No. 1 to Agreement No. 17570 with Walker Parking Consultants for the sum of not to exceed \$16,400, from Capital Fund 450, for providing certain architectural and engineering services to the city of Duluth in connection with the casino parking ramp addition, 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. 97-0714-27. Agency 015, Org. 1996, Object C603.

Resolution 97-0613 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license, on sale Sunday license and dancing license for the period ending August 31, 1997, subject to departmental approvals and the payment of sales and property taxes:

Cap of Duluth, Inc. (Roby's Bar & Lounge), 2023 West Superior Street, with James "Cub" Olson, president and 65 percent stockholder, and Michael Petrich, vice president and 35 percent stockholder, transferred from Roby's Bar & Lounge, Inc. (Roby's Bar & Lounge), same address.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Resolution 97-0560 was unanimously adopted.  
Approved July 14, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Cap of Duluth, Inc. (Roby's Bar & Lounge), 2023 West Superior Street, for July 26, 1997 (rain date August 9, 1997);

Joel T. Baker (Curly's Bar), 2013 West Superior Street, for July 26, 1997 (rain date August 9, 1997).

Resolution 97-0563 was unanimously adopted.  
Approved July 14, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license for the period ending April 30, 1998, subject to departmental approvals and the payment of sales and property taxes:

Waterfront Plaza Hotel Company, LLC (Second Home - A Suite Hotel), 325 Lake Avenue South, with Brock Hospitality, Inc., 25.5 percent stockholder, Donald Holm Construction, Inc., 16 percent stockholder, Marine Iron and Ship Building Co., 51 percent stockholder, John & Lori Searfoss, five percent stockholder and Dr. Ron and Robin Jackson, 2.5 percent stockholder.

Resolution 97-0584 was unanimously adopted.  
Approved July 14, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

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

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

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

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

	<u>Licensee</u>	<u>Gambling site</u>	<u>Date application filed</u>
1.	Cloquet Amateur Hockey	Alpine Bar	June 9, 1997
2.	East End Hockey Club	Midway Bar	June 20, 1997
		Stadium Lanes	June 20, 1997

Resolution 97-0601 was unanimously adopted.  
Approved July 14, 1997  
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR RAPAICH:

RESOLVED, that Streicher's be and hereby is awarded a contract for furnishing and delivering lightbars for squad cars for the police department in accordance with specifications on its low specification bid of \$6,028.96, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2007, Object V701.

Resolution 97-0603 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Commercial Electric Company be and hereby is awarded a contract for furnishing annual emergency electrical services for the Duluth steam cooperative, water division, sewer division and fleet services division in accordance with specifications estimated to total of \$10,650, terms net 30, FOB job sites, \$600 payable out of Water Fund 510, Dept./Agency 900, Organization 0550, Object 5404; \$550 payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5404; \$4,000 payable out of Sewer Fund 530, Dept./Agency 500, Organization 0550, Object 5404; \$3,000 payable out of Steam Fund 540, Dept./Agency 920, Organization 1450, Object 5310 and Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5404.

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

Resolution 97-0604 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Superior Ford be and hereby is awarded a contract for furnishing and delivering five 1997 Ford Taurus four-door sedan unmarked squad cars for the police department in accordance with specifications on its low specification bid of \$74,530, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2007, Object V702.

Resolution 97-0606 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Johnson Auto Electric be and hereby is awarded a contract for furnishing and delivering vehicle filters for the fleet services division in accordance with specifications on its low specification bid of \$6,000, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 97-0609 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Computer Pro be and hereby is awarded a contract for furnishing and delivering a two year subscription to computer virus protection software for the data processing

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division in accordance with specifications on its low specification bid of \$5,857.50, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2107, Object E713.

Resolution 97-0617 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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 June 6, 1997, and which are filed with the city clerk as Public Document No. 97-0714-28, are approved.

Resolution 97-0576 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0581, by Councilor Bohlmann, confirming appointment of Isobel Rapaich to Duluth economic development authority replacing David Wheeler, was introduced for discussion.

Councilor Bohlmann stated she cannot support this resolution because she believes that all councilors should be on DEDA.

Councilor Rapaich stated she will abstain from voting on the resolution.

Resolution 97-0581 was adopted as follows:

BY COUNCILOR BOHLMANN:

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

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

Isobel Rapaich for a term expiring April 27, 2003, replacing David Wheeler who resigned, subject to Resolution 89-0323.

Resolution 97-0581 was adopted upon the following vote:

Yeas: Councilors Hales, Hogg, Keenan, Prettner Solon, Talarico, Young and President Hardesty -- 7

Nays: Councilor Bohlmann -- 1

Abstention: Councilor Rapaich -- 1

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

COMMISSION ON DISABILITIES

Ann Flannagan for a term expiring November 1, 2000, replacing Sandra Moilanen who resigned.

Resolution 97-0598 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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classification of gas fitter, which were approved by the civil service board on July 7, 1997, and which are filed with the city clerk as Public Document No. 97-0714-29, are approved, that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and that the pay range will change from Pay Range 26, pay rate of \$2,226 to \$2,629 per month, to Pay Range 29, pay rate of \$2,524 to \$2,995.

Resolution 97-0615 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

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

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of Davidson Printing Company; and

WHEREAS, it is consistent with the purpose of this governing unit to encourage employment and increase tax base.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports this application for funding on behalf of Davidson Printing Company.

Resolution 97-0587 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the northeast entrepreneur microenterprise fund program project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0714-30, with the Northeast Entrepreneur Fund, Inc., of Virginia, Minnesota, to implement the above project. Payment for said services shall not exceed \$75,000, payable out of the 1997 Federal Program Fund 262 - community development - northeast entrepreneur microenterprise program Account No. 6018.

Resolution 97-0595 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hogg, Keenan, Prettnner Solon, Rapaich, Talarico, Young and President Hardesty -- 8

Nays: Councilor Hales -- 1

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to reclassify from conservation to nonconservation and to offer for sale the following tax forfeited parcel now withheld from sale in conservation:

<u>File #</u>	<u>Applicant Name</u>	<u>Legal Description</u>	<u>Location</u>
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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97086 James Barrett Lots 2-5, Block 20, Portion south side of Gogebic  
of Riverside Park, Second Street between 94th  
Addition (10-3980-2550, and 95th Avenues West  
2570, 2580, 2590) (Smithville)

Resolution 97-0618 was unanimously adopted.  
Approved July 14, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file of the office of the city clerk as Public Document No. 97-0714-31, with the Duluth Yacht and Keel Club authorizing said organization to utilize property owned by the Army Corps of Engineers pursuant to Licence No. DACW35-3-97-3005, granted to the city, in conjunction with the Trans Superior Yacht Race.

Resolution 97-0625 was unanimously adopted.  
Approved July 14, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the city of Duluth hereby accepts a donation of \$2,109 from the Park Point community club to be used solely to employ an additional staff person for summer recreation programs at Lafayette Square in 1997. Said donation shall be deposited into the parks and recreation department Budget No. 100-400-1812-5103, to be used to pay for the additional staff position at Lafayette Square.

RESOLVED FURTHER, that the city clerk is directed to send a certified copy of this resolution to the Park Point community club as a message of thanks for their donation.

Resolution 97-0597 was unanimously adopted.  
Approved July 14, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute agreements with the following groups to provide concerts at the library: Windjammers (\$320), The Downbeats (\$400) and Natural Grass (\$250), for a total of \$970. Payable from General Fund 100, Agency 300, Organization-Library Services 1702, Object-other professional services 5319.

Resolution 97-0599 was unanimously adopted.  
Approved July 14, 1997  
GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 97-0714-32, with the Minnesota department of economic security to provide services under the job training partnership act as defined in the Program Year 1997-98 local plan update from July 1, 1997, through June 30, 1998, up to the amount of funding provided by said department for said program.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Program funds will be accepted upon receipt of notices of funds available. Funds received shall be deposited in Fund 268, Budget Items 6201, 6202, 6203, 6204, 6206 and 6260.

Resolution 97-0589 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to accept \$239,818 in job training partnership act funds from the Minnesota department of economic security to provide summer youth employment and training programs to economically disadvantaged youth pursuant to approval of the contract in Resolution 97-0589R. A copy of the notice of funds available (NFA) shall be on file in the city clerk's office as Public Document No. 97-0714-33.

FURTHER RESOLVED, that monies received shall be deposited in Fund 268, Budget Item 6204.

Resolution 97-0590 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to accept on behalf of the city of Duluth, pursuant to the Laws of Minnesota, 1967, Chapter 374, a national Senior Citizens Education & Research Center, Inc., grant in the amount of \$222,766 for the period July 1, 1997, through June 30, 1998. A copy of this agreement shall be on file in the city clerk's office as Public Document. No. 97-0714-34.

FURTHER RESOLVED, that monies received shall be deposited in Fund 270, Budget Item 6325.

Resolution 97-0591 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to modify City Contract No. 17080 with Mrs. Allegra French Dengler by Bowman Corporation for office space in the Board of Trade building modifying the lease term to June 30, 1998, and increasing the total amount payable by \$36,956.40; \$10,000 payable out of Fund 269, Budget Item 6277 (FSET), \$10,000 from Fund 269, Budget Item 6276 (STRIDE), \$10,000 from Fund 268, Budget Item 6201 (JTPA II-A) and \$6,956.40 from Fund 268, Budget Item 6205 (MYP). A copy of this modification shall be on file in the city clerk's office as Public Document No. 97-0714-35.

Resolution 97-0612 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

WHEREAS, pursuant to Laws 1996, Chapter 463, Section 24, Subdivision 3, as amended by Laws 1997, Chapter 136 (the legislation), the legislature of the state of Minnesota granted \$1.4 million to the city of Duluth (the city) for remodeling a clinic building for use by the Duluth Family Practice residency program; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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WHEREAS, said legislation authorized the city to transfer and delegate its rights and obligations under the legislation to the Duluth economic development authority; and

WHEREAS, the city is desirous of having the legislation implemented by DEDA in accordance with the terms thereof.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth economic development authority is hereby authorized to draw upon and expend up to \$1,400,000 granted by the state of Minnesota pursuant to the legislation for the purposes of, and in accordance with the requirements of, the legislation and with such other laws of the state of Minnesota as are applicable to the use of the funds granted thereby.

Resolution 97-0614 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR YOUNG:

WHEREAS, it appears that it may be necessary that a six inch ductile iron water main and a two inch P.E.H.P. gas main be constructed in 65th Avenue West from Roosevelt Street northerly approximately 108 feet.

NOW, THEREFORE, BE IT RESOLVED, that it is the intention of this council to cause construction of said improvement, provided that further investigation demonstrates that such action be taken.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and do those further things prescribed by Section 62 of the Charter.

Resolution 97-0593 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR YOUNG:

RESOLVED, that Novaspect, Inc., be and hereby is awarded a contract for furnishing and delivering 36 one inch and two inch natural gas relief valves for the water and gas department in accordance with specifications on its low specification bid of \$6,573.39, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 97-0600 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR YOUNG:

RESOLVED, that Hydro Supply Company, Inc., be and hereby is awarded a contract for furnishing and delivering water meter repair parts for the water and gas department in accordance with specifications on its low specification bid of \$20,000, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5220.

Resolution 97-0608 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR YOUNG:

RESOLVED, that a new Rule 6A is hereby added to the Standing Rules of the city council to



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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read as follows:

Rule 6A. Pledge of Allegiance.

All regular and special meetings of the council shall begin with a pledge of allegiance to the United States flag.

Resolution 97-0619 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the city of Duluth is hereby authorized to enter in a subgrant agreement with the division of emergency management in the Minnesota department of public safety for the program entitled infrastructure program for FEMA 1175-DR-MINNESOTA.

RESOLVED FURTHER, that Mayor Gary L. Doty is hereby authorized to execute and sign such subgrant agreements and amendments as are necessary to implement the project on behalf of the city of Duluth.

Resolution 97-0592 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Foster, Jacobs & Johnson, Inc., for engineering services relating to the replacement of Lift Station No. 28 located on Airport Road east of Taylor Circle, which agreement is on file in the office of the city clerk as Public Document No. 97-0714-36; payment not to exceed \$4,000, payable from Fund 531, Agency 500, Object 5532.

Resolution 97-0596 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete an engineering geotechnical soil and laboratory analysis; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to repair road and retaining wall along Skyline Boulevard approximately 1/2 mile east of Haines Road; and

WHEREAS, American Engineering Testing, Inc., has submitted a proposal for professional engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with American Engineering Testing, Inc., to provide the city with such professional engineering services.

BE IT FURTHER RESOLVED, that the cost of said professional engineering services, estimated at \$5,647, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2125, Object 5530. To be reimbursed by municipal state aid (M.S.A.).

Resolution 97-0605 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR TALARICO:

RESOLVED, that Theco, Inc., be and hereby is awarded a contract for furnishing and delivering a material screener with a conveyor for the street maintenance division in accordance with specifications on its low specification bid of \$6,814, terms net 30, FOB shipping point, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5415. This is a rental of a material screener with a conveyor for the street sweepings.

Resolution 97-0607 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Kent G. Worley, landscape architect, for the sum of not to exceed \$7,750, from Capital Fund 450, Agency 015, Org. 1997, Obj. C716, for providing certain landscape architectural services to the city of Duluth in connection with Lakewalk landscape and plantings, 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. 97-0714-37.

Resolution 97-0610 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 97-0585 to Leadcon, Inc., for 1997 sidewalk repairs, be amended to include community development funding for a total of \$356,184, payable out of special assessment fund of which \$82,000 shall be reimbursed from the 1997 Federal Program Fund 262 - community development - as follows: \$60,000 Endion/East Hillside sidewalk safety project, Account No. 6012, and \$22,000 West Duluth sidewalk safety project, Account No. 6016 for project work completed in the two above named community development program neighborhoods.

Resolution 97-0611 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Levine and Sons, Inc., be and hereby is awarded a contract for 1997 city-wide storm sewer repairs for the sewer division in accordance with specifications on its low specification bid of \$70,023, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2123, Object 5530.

Resolution 97-0616 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, a no parking zone is hereby established on the south side of Recycle Way

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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from Colalillo Drive to 1,300 feet easterly.

Resolution 97-0586 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

WHEREAS, that in accordance with the provisions of Section 33-17 of the Duluth City Code, 1959, as amended, that Fifth Street Alley from Fifth Street to First Avenue West is hereby designated and established as a one way eastbound alley upon which vehicular traffic shall move in the designated direction only.

BE IT RESOLVED, that this resolution becomes effective only after said alley has been posted with proper signs indicating the same to be a one way alley in the designated direction only.

Resolution 97-0620 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the Minnesota department of public safety, Minnesota auto theft prevention program to reimburse the police department for the salary and benefits of one police officer and equipment.

BE IT FURTHER RESOLVED, that the proper city officers are hereby authorized to execute such agreements as necessary to implement the project on behalf of the Duluth police department. All revenue to be deposited in Special Projects Fund 210, Dept. 030, Org. 2120, Revenue Source 4230.

Resolution 97-0621 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

WHEREAS, communities across the United States have designated August 5, 1997, as a national night out to celebrate community and neighborhood awareness and unity; and

WHEREAS, the purpose of the national night out is to generate support and participation in local anti-crime efforts, to strengthen neighborhood spirit and police community partnerships, to heighten crime and drug prevention awareness and to send a message to criminals that neighborhoods are fighting back; and

WHEREAS, the Duluth City Council wishes to express its support for the national night out and the goals and purposes behind it.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby expresses its support for a national night out on August 5, 1997, 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 97-0622 was unanimously adopted.

Approved July 14, 1997

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the first time:

BY COUNCILOR HOGG

97-020 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$525,000 GENERAL OBLIGATION TRANSIT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

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BY COUNCILOR HOGG

97-021 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$100,000 GENERAL OBLIGATION RECREATION FACILITIES 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.

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The following entitled ordinances were read for the second time:

The rules were suspended upon a unanimous vote to consider Ordinance 97-017, Ordinance 97-015 and Ordinance 97-016 at this time.

BY COUNCILOR RAPAICH

97-017 (9337) - AN ORDINANCE AMENDING THE OFF SALE HOURS OF SALE FOR INTOXICATING LIQUOR IN THE CITY OF DULUTH; AMENDING SECTION 8-17 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Connie Louiselle supported the ordinance and explained a previous state law allowed all liquor stores in the state except those in the Twin Cities and Duluth to be open until 10:00 p.m. He stated that the law had been changed to allow Duluth to change its hours. Mr. Louiselle stated that Duluth liquor stores and businesses have lost approximately \$10 million in sales to Superior and requested that the council vote to approve the change to the local ordinance.

Jan LaSarge supported the ordinance and noted that Proctor has passed an ordinance extending its permitted hours of sale. She added that Proctor has experienced no new problems due to the change and added that revenue for the city has increased.

Administrative Assistant Nollenberger reviewed that state law did not permit a city of the first class and a city within 15 miles of a city of the first class to be open after 10:00 p.m. Monday through Thursday. He stated that state law changed which allowed this ordinance change that will allow liquor stores to be open Monday through Saturday until 10:00 p.m.

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

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

Nays: Councilor Bohlmann -- 1

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BY COUNCILOR PRETTNER SOLON

97-015 (9338) - 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 TO C-5, PROPERTY LOCATED SOUTH OF CENTRAL ENTRANCE BETWEEN BLACKMAN AVENUE AND CLEARWOOD DRIVE (BRESNAN).

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

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BY COUNCILOR PRETTNER SOLON

97-016 (9339) - AN ORDINANCE TO RENAME PORTIONS OF 18TH STREET SOUTH AS HARBOR POINT CIRCLE (SINGER).

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

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BY COUNCILORS HOGG, PRETTNER SOLON, RAPAICH AND TALARICO

97-019 - AN ORDINANCE ADDING A NEW ARTICLE XXVI TO CHAPTER 2 OF THE CITY CODE REQUIRING THAT A PRESCRIBED MINIMUM LEVEL OF COMPENSATION (A LIVING WAGE) BE PAID TO EMPLOYEES OF FINANCIAL ASSISTANCE RECIPIENTS OF THE CITY AND DEDA.

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BY PRESIDENT HARDESTY

97-018 (9340) - AN ORDINANCE ADDING ARTICLE XXVI TO CHAPTER 2 OF THE DULUTH CITY CODE REQUIRING NOTHING LESS THAN A PRESCRIBED MINIMUM LEVEL OF COMPENSATION (A LIVING WAGE) BE PAID TO EMPLOYEES OF CONTRACTORS OF THE CITY AND ITS FINANCIAL ASSISTANCE RECIPIENTS AND EMPLOYEES OF SUCH FINANCIAL ASSISTANCE RECIPIENTS OF THE CITY.

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

The following individuals spoke in favor of the ordinance: Lois Shields, Patty Edwards, Jerry Alander, Shirley Duke, Craig Olson, Robert LaFlamme, president of the Minnesota Senior Federation Northeast Coalition, Bob Kosuth, Michael Linn, Kathy McTavish, Rod Cragen, George Sundstrom, business representative for the sheet metal worker's union, Dylan Ellefson, John Herd, Alan Netland, spokesperson for Duluth Coalition for a Living Wage, Steve O'Neil, spokesperson for Loaves and Fishes, John Forrest, Trina Taylor, Jessica Connor, Marsh Stenersen, Garth Bates Cruz Mendoza and Jim Soderberg, director of CHUM.

Reasons and statements supporting the ordinance were as follows: earning a living wage adds dignity to the way one feels about him/herself and enables workers to maintain a stable family unit which results in productive, reliable employees, a living wage creates economic fairness, earning a living wage can assist families as they attempt to get out of poverty and break away from welfare benefits that are being eliminated; there is presently a trend in Duluth indicating that working families are utilizing the foodshelf more frequently to make ends meet because of inadequate wages; mandating a living wage will draw the gap between the rich and the poor closer; the living wage concept is fully consistent with Quaker traditions in that it supports humanitarian conditions in the workplace; if living wage jobs are available, young Duluthians will stay to work and spend their paychecks in the area instead of moving elsewhere; students need to earn a living wage to support themselves through college; the city has a moral responsibility to insure that living wage jobs are created when providing financial incentives to businesses; residents have a right to advise where city tax dollars will be spent; the ordinance will help boost the city's economic development; subsidizing businesses without requiring accountability results in financial drain for communities; councilors should be concerned about the residents of Duluth and not what perception outside businesses will have about Duluth; the federal government has three laws in effect which establish minimum standards of wages and benefits for employees, and in the past, every advance in the welfare of the general population has been rejected by business; it is time for the city to advance to the status of the people of Duluth; and there should be incentives made to keep businesses in the United States.

Catherine Peterson, CAP director, reviewed that the living wage ordinance will not bring a family of three or more over the poverty level, and that the family will still be eligible for assistance from other local agencies. She continued saying that many of the families in poverty are working poverty families and have no benefits provided or available in their place of work. Ms. Peterson stated that the federal government is giving this issue back to the cities to decide what a living wage is.

Erik Petersen spoke on the issue of service contracts and stated that businesses that perform certain services for the city which are paid for by taxpayer money are required to pay their employees a living wage. He continued saying that this has nothing to do with city employees, that union contracts are exempt from the ordinance, and that in order for a living wage ordinance to have any credibility, it must apply the standard of a living wage to city service contracts as it applies to businesses receiving city subsidies.

Steve Dornfeld, manager of the Duluth public golf courses, stated that the ordinance will have a negative impact on operations at both golf courses. He reviewed that 90 percent of employees are high school and college age who have no special training. He added that these are seasonal positions, and if the city is forced to pay a living wage, the result will be an increase on green fees or a reduced number of employees. Mr. Dornfeld requested the council to consider temporary and seasonal jobs when voting on the ordinance.

Keith Brownell noted that whatever decision is made tonight regarding this issue will go into permanent archives and questioned if the people reading the public record years from now will understand why the council voted the way they did.

Alan Klapmeier, president of Cirrus Design Corporation, stated that even though his company meets the requirements of the proposed living wage ordinance, if this ordinance had been in effect at the time, it would have made a difference in it's decision to locate here. He continued saying that this ordinance does meet Duluth's goal to bring new businesses to locate in the city.

Robert Heimbach, president of the chamber of commerce, stated that the chamber strongly supports living wages in Duluth but disagrees on how to achieve them. He noted that there is criteria in place through DEDA, the 1200 Fund, and Team Duluth to attract economic development. In opposing the ordinance, Mr. Heimbach stated that the chamber's mission is to attract good paying jobs for Duluth; the board of directors of the chamber have twice voted no on this ordinance; and potential future companies are no longer interested in relocating to Duluth when they learn of the proposed ordinance. He emphasized that the chamber is not inflexible or intolerant to the proposal and would like to find a compromise. Mr. Heimbach offered for consideration that a three year exemption be given to a new business before being required to comply with the ordinance. He also suggested that the issued be studied further to determine impact this ordinance will have on the city.

Mike Bowes, economic development manager for the chamber of commerce, stated that it is the opinion of business leaders and commercial lenders that he has met with, that the perception of a living wage ordinance will make Duluth an undesirable place to start a business. He requested that the council carefully consider the restrictions that those in the economic development area will be required to work with if this ordinance is passed.

Don Monroe, president of Citizen's Research Council, stated that in determining what decision the council should make with regard to this issue, it appears that emotions have taken control. He stated that the numbers presented in the Baltimore living wage ordinance do not tell the whole story and requested the council to restore common sense and do what is good for the community.

Alan Kehr opposed the ordinance, stating that the documentation supporting the ordinance is flawed and that the purpose of government is to provide central services for its citizens. He noted that the ordinance sacrifices freedom to contract with an employer and invades payroll privacy.

Clyde Nelson stated that the council's job is to protect the taxpayers, which includes providing a positive climate for future and current Duluth businesses who employ taxpaying citizens. He added that some lasting effects this ordinance may have on Duluth include higher taxes, higher business costs, and perhaps, less people employed.

Tom Paradise opposed the ordinance, stating that Minnesota businesses are already strapped with too many government taxes and rules and that Duluth needs to create an exciting and vibrant business climate that makes the city desirable for new companies wishing to come here.

Gregg Lillejord, representing FIGHT for Minnesota, opposed the ordinance and stated that there needs to be discussion about "living taxes" and how people who are making livable wages cannot make it because taxes are too high.

President Hardesty reviewed the process that has been followed by the administration, council and task force since the original ordinance was proposed. She stated that now another ordinance has been introduced, which is a counter offer to the original proposal which has initiated discussions and has brought about compromised measures to be considered by the council. President Hardesty emphasized six areas which she believes need to be agreed upon in order for an ordinance to be passed that include the definitions of city financial assistance and who should be covered by this ordinance; city employees and service contractors; living wage requirements for businesses; should the living wage be adjusted to correspond with the federal poverty guidelines, or brought before the council for annual adjustments; and how do we ensure accountability and compliance with the ordinance.

Councilor Keenan stated he is uncomfortable taking action this evening and he noted the numerous amendments to be proposed. With regard to the six areas emphasized by President Hardesty, he stated that unless the specific issues are addressed in the amendments, he does not believe a council meeting is an appropriate forum for councilors to negotiate them.

President Hardesty moved to amend the ordinance by deleting all references to city employees as follows: delete the third sentence of Section 2-135; delete Section 2-136(e)(2)(l); delete Section 2-136(g)(3); and amend Section 2-136(h) by deleting the words "The city and" from the beginning of the definition, which motion was seconded and discussed.

Responding to Councilor Talarico, President Hardesty agreed that this amendment removes from the statement the concept of involving city employees as a special category. She stated it is important to remove the references at this time because of confusion purveyed with regard to entangling this ordinance with union discussions.

President Hardesty's amendment passed upon a unanimous vote.

President Hardesty moved to amend Section 2-136(c)(7)(A) to read as follows:

"(A) A small employer as defined by Minnesota Statutes Section 177.24, Subd. 1(a)(2)."

President Hardesty stated this amendment is intended to conform with the wording in Minnesota Statutes.

President Hardesty's motion was seconded and carried upon a unanimous vote.

President Hardesty moved to amend Section 2-137(a) by adding the words "at least 95 percent of their" after the word "pay" at the end of the first line, which motion was seconded for discussion.

Councilor Keenan stated he will not support the amendment because he does not believe it is an appropriate percentage for job creation and economic development climate of the city of Duluth.

Responding to Councilor Hales, President Hardesty stated that the issue has been discussed extensively by both sides and the deviation from 100 percent is a compromise to allow for flexibility.

President Hardesty's amendment failed upon the following vote:

Yeas: Councilors Bohlmann, Hogg, Rapaich and President Hardesty -- 4

Nays: Councilors Hales, Keenan, Prettner Solon, Talarico and Young -- 5

President Hardesty moved to amend the ordinance by eliminating all language in Section 2-138 and substituting language as follows:

"Sec. 2-138. Penalties for noncompliance.

(a) Any employer covered by this Article who violates the terms of sections 2-137, 2-138 or 2-139 shall receive no further payments or city support services until the recipient has come into full compliance with this Article; including payment of back wages, if applicable. In addition, it shall be the responsibility of city staff to also enforce other specific provisions for noncompliance which may be included in individual economic development contracts;

(b) If an employer violates the provisions of this Article three times, the city shall terminate all contracts already in force and that employer or subcontractor shall be prohibited from receiving city financial assistance or contracting with the city for a period of five years;

(c) City contracts or other agreements to which this Article applies shall expressly prohibit retaliation against any employee who claims violation of the provision of this Article or reports or testifies regarding an alleged violation," which motion was seconded.

President Hardesty explained the language and stated that it enables the city to enforce the provisions of the ordinance in the event that establishment of a living wage does pass.

President Hardesty's amendment passed upon a unanimous vote.

President Hardesty moved to amend Section 2-139(a) by deleting the words "a semiannual basis" and inserting "on or before February 10 and August 10 of each year," which motion was seconded and unanimously carried.

President Hardesty moved to delete Section 2-139(c). She explained that this amendment eliminates all reference to criminal penalties.

President Hardesty's amendment was seconded and carried upon a unanimous vote.

Councilor Prettner Solon introduced an amendment to amend the definition of "city financial assistance recipient." She explained in detail that the amendment spells out the different types of financial assistance that the city can provide. Councilor Prettner Solon stated that without specific definitions, the city would be allowed to decide what kinds of financial assistance recipients can receive.

Councilor Prettner Solon moved to amend Section 2-136 and add Section 2-142 as follows:

(a) In paragraph (c)(3), add "and grants" after the word "loans";

(b) Add paragraph (c)(7) to read as follows: "Other types of financial assistance added to this definition by resolution of the city council except the following";

(c) After the words "except the following," add the following language:

"(A) A small employer as defined in Minnesota Statutes Section 177.24, Subd. 1(a)(2);"  
and

"(C) Recipients of less than \$25,000 of incentives"; and

"Sec. 2-142. Report of new types of financial assistance.



Whenever the city creates a new type of financial assistance for the purpose of economic development or job growth, the administrative assistant of the city shall report such fact to the city council within 30 days. The city council may, by resolution, add such new type of financial assistance to the list of covered types of financial assistance set forth in Section 2-136."

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Councilor Prettner Solon moved to extend the council meeting until 11:30 p.m., which motion was seconded and unanimously carried.

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Councilor Prettner Solon explained the amendment in detail and stated that Section 2-142 requires the administration to request council approval when any types of financing are requested that are not already specified in the ordinance.

President Hardesty requested, as a friendly amendment, that language be added to Section 2-136(b)(2) (enterprise zone credits) to make the intent of this ordinance more clear in terms of closing loop holes that could occur in the future as new tax credits might occur. She added that she believes the intent is to identify tax credits as a form of economic development assistance and she is looking for a broader definition that just enterprise zone credits.

Councilor Prettner Solon declined acceptance of President Hardesty's friendly amendment, stating that the language does not fit with her intention for the amendment. She stated that the purpose of Section 2-136(c)(7) is so that when new types of financial incentives arise, it will be responsibility of the administration to bring them to the council to be added to the list.

Councilor Bohlmann suggested incorporating language in the ordinance that would specifically state "all future loans and grants that may come before the council in the future." She stated the intent of this language is to prevent anyone from circumventing the law that is created by the ordinance. She stated that by making the language all inclusive, any incentive being given by the city will be included.

Councilor Prettner Solon stated that the intent of specific identification does not leave for any speculation by the city as to what is considered financial assistance. She added that if language is not specific, ill will between the administration and council will be created. She noted that the language in the amendment incorporates language contained in a written amendment submitted by Councilor Hogg as well.

President Hardesty offered as a friendly amendment to Section 2-136(c)(7)(B) by adding the words "when the sole purpose of requesting the assistance is to provide these services" after the words "job readiness and training services." She explained that if job readiness and training services is going to be exempted, it should be when those services are really the primary or sole purpose of an organization or agency. President Hardesty stated that the language, as written, may inadvertently allow a loophole.

Councilor Prettner Solon moved to accept President Hardesty's friendly amendment, which motion was seconded.

Councilor Prettner Solon's amendment was seconded and carried upon a unanimous vote.

Councilor Keenan moved to amend Section 2-137(a) by adding the words "at least 66 percent of their" after the word "pay" at the end of the first line, which motion was seconded failed upon the following vote:

Yeas: Councilor Keenan -- 1

Nays: Councilors Bohlmann, Hales, Hogg, Prettner Solon, Rapaich, Talarico, Young and President Hardesty -- 8

President Hardesty moved to add language to Councilor Prettner Solon's amendment by adding paragraph (h) to Section 2-136(c) to read as follows:

"(h) Any of the above types of assistance provided by an entity created, financed or controlled by the city."

President Hardesty stated that in some ways paragraph (h) provides for what the language in paragraph (g) provides for, but it does not necessarily bring it back to the city council. She explained that the language works into the intent of the ordinance to identify economic development assistance, and noted, is an effort to clarify and make more and inclusive.

President Hardesty's motion was seconded for discussion.

Councilor Prettner Solon stated that the amendment creates mystery of exactly what that is and she is concerned it will be left up to debate and speculation. She questioned if the amendment would include authorities such as Spirit Mountain and the HRA which have already been excluded. Councilor Prettner Solon stated the amendment is inconsistent with the ordinance.

President Hardesty stated she believes it is important to lay the ground work for the purpose of the ordinance. She continued that the lack of definition may cause the council to reexamine it over and over again. President Hardesty said she believes that the wording "all forms of city financial assistance" would be fine, but because the council is specifying particular forms, the ordinance does not say "all" and the possibility of new developments have been left open and then the council will be required to include new forms of financing again and again.

President Hardesty's amendment failed upon the following vote:

Yeas: Councilor Bohlmann and President Hardesty -- 2

Nays: Councilors Hales, Hogg, Keenan, Prettner Solon, Rapaich, Talarico and Young -- 7

Councilor Hogg moved to amend the ordinance by adding a new Section 2-143 as follows:

"Sec. 2-143. Applicability of article to the Duluth economic development authority.

The provisions of this Article requiring that the city include certain provisions in its contracts with employers and make certain reports to the city council shall also be applicable to the Duluth economic development authority, and to such extent Resolution 89-0323 establishing such authority is hereby amended."

Councilor Hogg stated that this is the same language included in Section 2-140 of Ordinance 97-019.

Councilor Hogg's amendment was seconded for discussion.

City Attorney Dinan stated that the council has not amended the definition of "city" in the ordinance and that since DEDA is considered as part of the city, there is no need for this amendment.

Councilor Hogg withdrew his amendment.

Councilor Talarico moved to amend Section 2-137(a) by adding the words "at least 85 percent of their" after the word "pay" at the end of the first line, which motion was seconded for discussion.

Councilor Talarico explained that as was attested to by Mr. Klapmeier and other members involved in business, it is very difficult to meet that standard with 100 percent of employees. He continued that the proponents of the ordinance believe that 66 percent is too low and that this amendment is intended to be a compromise.

Councilor Talarico's amendment failed upon the following vote:

Yeas: Councilors Keenan, Rapaich and Talarico -- 3

Nays: Councilors Bohlmann, Hales, Hogg, Prettner Solon, Young and President Hardesty -- 6

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Councilor Hogg stated that he believes 85 percent is too low and moved to amend Section 2-137(a) by adding the words "at least 90 percent of their" after the word "pay" at the end of the first line, which motion was seconded for discussion.

Councilor Keenan noted that at this time he cannot support the amendments to Ordinance 97-018, therefore, he will support Ordinance 97-019.

Councilor Hogg's amendment carried upon the following vote:

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

Nays: Councilors Hales, Keenan and Young -- 3

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Councilor Rapaich moved to extend the meeting until 12:00 a.m., which motion was seconded and carried upon a unanimous vote.

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Councilor Rapaich moved to amend Section 2-136(e), service contracts, by deleting paragraph (h) "Concessionaire, admission, gift shop and/or other service workers under the golf and zoo contracts." She stated she is concerned about golf and zoo seasonal employees, which motion was seconded for discussion.

Councilor Bohlmann stated she cannot support the amendment because the city is paying high salaries to golf pros and the city should be able to pay its staff accordingly.

Councilor Hales called the question, which motion failed upon the following vote:

Yeas: Councilors Hales, Keenan, Rapaich and Young -- 4

Nays: Councilors Bohlmann, Hogg, Prettner Solon, Talarico and President Hardesty -- 5

Councilor Hogg stated he cannot support the ordinance with the service contract provision included in it.

President Hardesty defended keeping the service contract provision as part of the ordinance because it sets a community standard with regard to how public dollars are spent to pay people who work for the city. She continued that to exempt the city from paying a living wage with regard to service contracts is inconsistent with standards which require businesses relocating to Duluth through the use of public resources to pay their employees a living wage. President Hardesty stated she will not support the amendment because it sets a double standard.

Councilor Prettner Solon stated that through prior amendment, city employees have been eliminated already. She continued that this amendment really only covers people who contract with the city and she is not certain why the eight different categories included in Section 2-136(c)(7)(E) have been singled out.

Responding to Councilor Prettner Solon, President Hardesty explained that this item includes service contracts that would traditionally affect people who receive wages below the living wage standard. She noted that every service contractor would not have to be paid \$7.25 per hour if the rest are being paid more.

Councilor Hogg stated that he believes taxpayers have a right to expect accountability of tax dollars going to businesses receiving city assistance for economic development. He disagreed that the city, as an employer entering into a service contract with a company, can require that vendors to pay their employees \$7.25 per hour. He further stated that if the city, by this ordinance, requires its service vendors to pay a living wage, then the definition of a "qualified bidder" is being changed because it requires the services contractors to pay their employees \$7.25 per hour in order to bid on a contract.

Councilor Hogg offered a friendly amendment to delete Section 2-136 Items "(d) service contractor" and "(e) service contract" and all references to service contractor in the ordinance, which amendment was accepted by Councilor Rapaich.

Councilor Bohlmann stated she will not support the amendment because she believes it eliminates half of what the ordinance is intended to accomplish.

Councilor Rapaich's amendment deleting Items (d) and (e) of Section 2-136, and all other references to service contractors and contracts included in the ordinance, carried upon the following vote:

Yeas: Councilors Hales, Hogg, Keenan, Prettner Solon, Rapaich, Talarico and Young -- 7

Nays: Councilor Bohlmann and President Hardesty -- 2

Councilor Keenan stated he believes the city needs to find ways to create new jobs that pay adequate wages for the citizens of the Duluth, however, he does not believe that passing an ordinance that tells employers what they must pay their employees is the best way to achieve that result. He continued that his opinion is that both sides of this issue lose tonight because the chamber does not want any ordinance passed, and the living wage coalition is being asked to accept a watered down version. Councilor Keenan voiced concern that there is a lack of economic research on whether a living wage ordinance will affect the city positively or negatively. He added that currently city administration, DEDA, the chamber and the council are working together to create a positive atmosphere to bring jobs to the city. Councilor Keenan stated he believes the ordinance will accomplish nothing and creates another level of bureaucracy.

Councilor Talarico stated that the ordinance is tough enough to show employers that there is concern about the wages being paid to employees while still providing for flexibility. He stated this is a step in making a public statement that the city is responsible and that there is a desire and effort on the city's part to do its best on behalf of people who work in the city. He encouraged adoption of the ordinance, as amended, so that the efforts of the living wage task force and the council will not have been in vain.

Councilor Bohlmann stated that she cannot support the ordinance because the amendments have weakened it to the point of making it meaningless. She stated that the city has lost its manufacturing jobs and she expressed concern that the city is pursuing and offering financial incentives to businesses that create low paying, temporary jobs related to tourism that do not provide the city with a return on its investment in terms of tax dollars. She continued that businesses have received free money for too long and it is time to pass a strong ordinance that will make businesses wishing to receive taxpayer dollars provide good paying jobs that will retain Duluth's population.

Councilor Hogg urged support for the amended ordinance and said he believes most councilors are concerned about the consequences a living wage ordinance will have on the community. He said he believes the amended ordinance does have strength in that it requires 90 percent compliance.

Councilor Hales stated she supports people being paid decent wages for the job that they do, but she cannot support either ordinance, noting that extensive amendment have been made to one ordinance and that the other one provides for no enforcement. She said the ordinances have been pushed through with too much haste, and, in their final version, have no integrity.

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Councilor Hales moved to extend the meeting until 12:10 a.m., which motion was seconded and carried upon a unanimous vote.

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Councilor Young stated that he has listened with an open mind, but cannot support the ordinance because government is not capable of creating jobs. He added that government can only create an atmosphere for entrepreneurs in the private sector to create jobs. He stated support for a referendum or a comprehensive study by an unbiased third party.

Responding to councilors Bohlmann and Hales, Councilor Talarico stated that there is a lot of misinformation about the process used by the city and he took issue with statements that imply that Duluth is only pursuing low paying, temporary service jobs. He reviewed numerous businesses that the city and DEDA have worked together with which have resulted in good paying jobs.

Mayor Doty noted that by some statements made this evening by the speakers, he can understand why people in the community are misled to believe economic development in Duluth is not healthy, when, in fact, it is extremely good. He stated it is also his desire to retain the more educated college students to work in Duluth but noted those individuals are looking for jobs that pay more than \$7.25 per hour. Mayor Doty continued saying that the city is presently marketing for businesses that pay higher than average wages, but that the city will not tell companies who can only provide service jobs that they are not welcome in Duluth.

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Councilor Hales moved to extend the meeting to no later than 12:20 a.m., which motion was seconded and unanimously carried.

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Mayor Doty continued that there has been a tremendous amount of compromise by both sides on this issue, but that the ordinance is a workable document. He stated he believes that residents of Duluth desire some accountability with regard to financial incentives being offered by the city to businesses wishing to start up in Duluth. Mayor Doty noted that the original ordinance, as proposed, prevents the city from working with businesses that provide entry level jobs to individuals with no experience who are trying to work themselves up into more self supporting jobs.

President Hardesty commended individuals who put their time and efforts into getting this difficult issue into a draft for the council to consider. She said she hopes that the council will have an opportunity to carry forward the measures that the two groups have come together in supporting. President Hardesty noted that she believes the council has made movement in the direction of coming together with a reasonable ordinance that reflects some of the principles that it has become more educated about, understands and is willing to legislate. She said she believes this issue has pulled the community together, but stated she cannot support the ordinance in its present form because it no longer represents what the living wage coalition believes is important and has worked for in the community.

Councilor Hogg moved to call the question, which motion was seconded and passed unanimously.

The ordinance, as amended, was adopted upon the following vote:

Yeas: Councilors Hogg, Keenan, Prettner Solon, Rapaich and Talarico -- 5

Nays: Councilors Bohlmann, Hales, Young and President Hardesty -- 4

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Councilor Hogg moved to remove Ordinance 97-019 from the agenda, which motion was seconded and carried upon a unanimous vote.

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The meeting was adjourned at 12:20 a.m.

MARTHA A. OSWALD, Deputy City Clerk, for

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 9337**

BY COUNCILOR RAPAICH:

AN ORDINANCE AMENDING THE OFF SALE HOURS OF SALE FOR INTOXICATING LIQUOR IN THE CITY OF DULUTH; AMENDING SECTION 8-17 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 8-17 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Section 8-17. Hours of sale--intoxicating liquor.

No sale of intoxicating liquor shall be made after 1:00 a.m. on Sunday, except as permitted by special license issued pursuant to the provisions of Section 8-46, or by on sale wine license, nor shall such sales be made after 8:00 p.m. on December 24.

No on sale shall be made until 8:00 a.m. on Monday nor between the hours of 1:00 a.m. and 8:00 a.m. on any other weekday.

No off sale shall be made before 8:00 a.m. nor after 10:00 p.m. of any day. No off sales shall be made on Thanksgiving Day or Christmas Day (December 25).

No person holding an off sale license for an exclusive liquor store shall, either directly or indirectly, suffer or permit such place to remain open for the transaction of any business at any other time than that prescribed in this Section for the sale of intoxicating liquor.

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, 1997 )

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

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

Nays: Councilor Bohlmann -- 1

Adopted July 14, 1997, pursuant to Sec. 12 of the Duluth City Charter

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**ORDINANCE NO. 9338**

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B TO C-5, PROPERTY LOCATED SOUTH OF CENTRAL ENTRANCE BETWEEN BLACKMAN AVENUE AND CLEARWOOD DRIVE (BRESNAN).

The city of Duluth does ordain:

Section 1. That Plate No. 28 of the zoning district map as contained in the appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

[MAP]  
[see page 325]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 24, 1997)

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

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

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed July 14, 1997  
Approved July 14, 1997  
GARY L. DOTY, Mayor

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**ORDINANCE NO. 9339**

BY COUNCILOR PRETTNER SOLON

AN ORDINANCE TO RENAME PORTIONS OF 18TH STREET SOUTH AS HARBOR POINT CIRCLE (SINGER).

The city of Duluth does ordain:

Section 1. That the following public thoroughfare shall be and is hereby renamed Harbor Point Circle: That portion of 18th Street South beginning at its point of the intersection of the center line Minnesota Avenue according to the plat of Upper Duluth and extending westerly to the cul-de-sac in the plat of Harbor Point Division, according to the plat thereof on file with the registrar for St. Louis County, Minnesota.

Section 2. That the city clerk, upon passage of this ordinance, shall:

(a) Notify the director of public works to proceed with erection of street signs relating to such change;

(b) Notify the property owners within 300 feet of the street;

(c) Notify the following agencies and utilities of the specific changes:

- (1) Business office of U.S. West Communications;
- (2) Manager of delivery and collection, main post office;
- (3) County auditor, St. Louis County;
- (4) President, Minnesota Power;
- (5) Chief, Duluth fire department;
- (6) Chief, Duluth police department;
- (7) Director, department of water and gas;
- (8) City assessor;
- (9) Voter registration department;
- (10) Minnesota department of transportation;
- (11) St. Louis County 911 agency.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 24, 1997)

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

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

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed July 14, 1997  
Approved July 14, 1997  
GARY L. DOTY, Mayor

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**ORDINANCE NO. 9340**

BY PRESIDENT HARDESTY:

AN ORDINANCE ADDING ARTICLE XXVI TO CHAPTER 2 OF THE DULUTH CITY CODE REQUIRING NOTHING LESS THAN A PRESCRIBED MINIMUM LEVEL OF COMPENSATION (A LIVING WAGE) BE PAID TO EMPLOYEES OF FINANCIAL ASSISTANCE RECIPIENTS OF THE CITY.

The city of Duluth does ordain:

Section 1. That Article XXVI be added to Chapter 2 of the Duluth City Code, to read as follows:

ARTICLE XXVI.

Public Investment and Living Wage.

Sec. 2-135. Purpose.

The city provides financial assistance for the purpose of promoting economic development and job growth. Such expenditures of public money are intended to serve a public purpose by creating jobs, expanding the city's economic base, promoting economic security for all citizens, and providing public services. Such public expenditures should be spent only with deliberate purpose to promote the creation of jobs that allow citizens to support themselves and their families with dignity. Sub-poverty level wages do not serve the public purpose and place an undue burden on taxpayers and the community which must further subsidize employers who pay sub-poverty wages by providing their employees health care, housing, nutrition, energy assistance, and other government provided services. The city has a responsibility when spending public money to set a community standard that permits full-time workers to live above the poverty line. Therefore, contractors, subcontractors or other recipients of city financial assistance should pay their employees nothing less than a living wage.

Sec. 2-136. Definitions.

For the purpose of this article the following definitions shall apply:

(a) City. The city of Duluth or any agency, board, commission, department or other entity thereof, including the Duluth economic development authority (DEDA) and any entity established or controlled by DEDA. City does not mean Spirit Mountain authority, airport authority, Seaway Port Authority of Duluth, Duluth housing and redevelopment authority, and Duluth Entertainment and Convention Center Administrative Board;

(b) Person. Means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association or other entity that may employ individuals or enter into contracts;

(c) City financial assistance recipient. Any person that receives any of the following types of financial assistance from the city for the purpose of economic development or job growth:

- (1) Minnesota investment fund loans;
- (2) Enterprise zone credits;
- (3) Business loans and grants;
- (4) Tax increment financing land write-downs;
- (5) Industrial park land write-downs;
- (6) Lease abatements;
- (7) Other types of financial assistance added to this definition by resolution of

the city council except the following:



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(A) A "small employer" as defined by Minnesota Statutes Section 177.24, Subd. 1(a)(2);

(B) Job readiness and training services when the sole purpose of requesting the assistance is to provide those services;

(C) Recipients of less than \$25,000 of incentives;

(D) Recipients of community development block grants;

(E) Summer youth employment programs;

(d) Subcontractor. Any person not an employee that assists a city financial assistance recipient in performing the work for which the assistance was given.

(e) Employee. Any person who is employed by a city financial assistance recipient or subcontractor and who works at a site or expends at least 1/2 of his or her time working on the project or portion of the business that received city financial assistance;

(f) Employer. Any city financial assistance recipient or subcontractor who employs employees.

Sec. 2-137. Payment of a living wage.

(a) All employers that are covered under this Article shall pay at least 90 percent of their employees a "living wage" of no less than an hourly rate of \$7.25 without health benefits or an hourly wage of \$6.50 with health benefits described in this Section. This hourly wage shall be adjusted on July 1 of each year to reflect the change over the prior 12 months in the consumer price index calculated by the United States department of commerce applicable to the city of Duluth;

(b) Health benefits required by this Section shall consist of the payment of at least \$1 per hour toward the provision of health care benefits for employees and their dependents. Proof of the provision of such benefits must be submitted to the city to qualify for the wage rate in Section 2-137(a) for employees with health benefits;

(c) Compliance with this Section is required for a period of three years from the time financial assistance is last given to a city financial assistance recipient.

Sec. 2-138. Enforcement.

(a) Any employer covered by this Article who violates the terms of Sections 2-137, 2-138 or 2-139 shall receive no further payments or city support services until the recipient has come into full compliance with this Article, including payment of back wages, if applicable. In addition, it shall be the responsibility of city staff to also enforce other specific provisions for non-compliance which may be included in individual economic development contracts;

(b) If an employer violates the provisions of this Article three times, the city shall terminate all contracts already in force and that employer or subcontractor shall be prohibited from receiving city financial assistance or contracting with the city for a period of five years;

(c) City contracts or other agreements to which this Article applies shall expressly prohibit retaliation against any employee who claims violation of the provision of this Article or reports or testifies regarding an alleged violation.

Sec. 2-139. Administration.

(a) The city shall report to the city council on or before February 10 and August 10 of each year whether the employers covered under this Article are complying with the provision of this Article. The city shall investigate any employee claims of violation of this Article;

(b) All employers are required to provide to the city on a semi-annual basis by no later than July 10 and January 10 of each year the following information for all employees covered by this Article:

- (1) Employee's name;
- (2) Employee's rate of pay and amount paid the employee during the reporting period; and
- (3) Number of hours worked by the employee during the reporting period.

The employer shall keep all records containing the information specified in subsection (b) of this Section for at least two years.

Sec. 2-140. Supersession by collective bargaining agreement.

Parties subject to this Article may by a collective bargaining agreement negotiated under the National Labor Relations Act, Minnesota Public Employees Labor Relations Act, or the Minnesota Labor Relations Act provide that such agreement shall supersede the requirements of this Article.

Sec. 2-141. Applicability of Article.

The provisions of this Article shall apply to:

- (a) A contract consummated and financial assistance provided after the effective date of this ordinance;
- (b) A contract amendment consummated after the effective date of this ordinance which itself meets the requirements of this Article or extends a contract that meets the requirements of this Article; and
- (c) Supplemental financial assistance provided after the effective date of this ordinance which itself meets the requirements of this Article.

Sec. 2-142. Report of new types of financial assistance.

Whenever the city creates a new type of financial assistance for the purpose of economic development or job growth, the administrative assistant of the city shall report such fact to the city council within 30 days. The city council may, by resolution, add such new type of financial assistance to the list of covered types of financial assistance set forth in Section 2-136.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 30, 1997)

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

Yeas: Councilors Hogg, Keenan, Prettner Solon, Rapaich and Talarico -- 5

Nays: Councilors Bohlmann, Hales, Young and President Hardesty -- 4

ATTEST:  
JEFFREY J. COX, City Clerk

Passed July 14, 1997  
Approved July 14, 1997  
GARY L. DOTY, Mayor



**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, July 28, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hogg, Keenan, Prettnner Solon, Rapaich, Talarico, Young and President Hardesty -- 9

Absent: None -- 0

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The minutes of council meetings held on January 6, 9, 13 and 27, 1997, were approved upon a unanimous vote.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0728-21 Damiano Center executive director submitting memo pertaining to plan for operation of the Duluth Tenants Union for 1997-98 (97-0623R). -- Received

97-0728-07 Melander Melander & Schilling Architects submitting communication pertaining to the Coleman Barge (97-0656R). -- Received

97-0728-08 St. Paul's Episcopal Church submitting request to defer action on the variance request for a new surface parking lot on property located at 1710 East Superior Street. -- Received

97-0728-09 The following submitting communications pertaining to the proposed branch library at Mt. Royal (97-0651R): (a) Nancy Crosby; (b) Mary Gagnon; (c) Harriet Halli; (d) Linda Papison; (e) Edward J. and Theresa A. Thompson. -- Received

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**REPORTS OF OFFICERS**

97-0728-02 Parks and recreation department director submitting Lake Superior zoological society minutes of May 29, 1997, meeting. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

97-0728-01 Board of zoning appeals minutes of: (a) April 22; (b) June 24, 1997, meetings. -- Received

97-0728-03 Planning commission minutes of June 25, 1997, meeting. -- Received

97-0728-04 Sanitary sewer board of WLSSD minutes of July 7, 1997, meeting. -- Received

97-0728-05 Special assessment board minutes of July 8, 1997, meeting. -- Received

97-0728-06 Tree commission minutes of July 14, 1997, meeting. -- Received

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**OPPORTUNITY FOR CITIZENS TO BE HEARD**

Jim Van Dell, producer of Knowledge, Awareness and Documentation (KAD) Network, whose purpose is strictly education on public access television, expressed his displeasure with the recent decision of Duluth-Superior Public Access Television (PACT) to reduce his programming time by 50 percent. In conclusion, Mr. Van Dell requested the council to investigate the issue.

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**MOTIONS AND RESOLUTIONS**

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale seasonal dance license for the period ending August 31, 1997, subject to departmental approvals:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Lucky Break Inc. (Mr. Lucky's Bar & Billiards), 610 East Fourth Street.  
Resolution 97-0498 was unanimously adopted.  
Approved July 28, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals:

Waltman Tessier Softball Tournament, Wheeler Field, for August 22-24, 1997, with John McAdamis, manager.

Beerhunters Softball Tournament, Wheeler Field, for August 2 and 3, 1997, with Ronald Herung, manager.

Resolution 97-0637 was unanimously adopted.  
Approved July 28, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Dwayne & Kimberly, Inc. (Kom On Inn), 517 North 58th Avenue West, for August 1, 1997 (rain date August 2, 1997), with the music ceasing at 11:00 p.m. and the serving ceasing at 12:30 a.m.

D & D Enterprises of Cloquet, Inc. (Mr D's Spirit Valley), 5622 Grand Avenue, for August 1, 1997 (rain date August 2, 1997), with the music ceasing at 11:00 p.m. and the serving ceasing at 12:30 a.m.

Rustic, Inc. (Rustic Bar), 401 North Central Avenue, for August 1, 1997 (rain date August 2, 1997), with the music ceasing at 11:00 p.m. and the serving ceasing at 12:30 a.m.

Lyric Block Development Corporation (Porters), 207 West Superior Street, for August 8 and 9, 1997, with the music ceasing at 12:30 a.m. and the serving ceasing at 1:00 a.m.

Holiday Inn of Tucumcari (Canal Park Inn), 250 Canal Park Drive, for August 8-10, 1997, with the music ceasing at 12:30 a.m. and the serving ceasing at 1:00 a.m.

Resolution 97-0638 was unanimously adopted.  
Approved July 28, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Arrowhead Equipment Company be and hereby is awarded a contract for furnishing and delivering a hydraulic control system for the fleet services division in accordance with specifications on its low specification bid of \$10,903.13, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2007, Object V715.

Resolution 97-0640 was unanimously adopted.  
Approved July 28, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the proper city officers are hereby authorized to enter into a professional services agreement with American Engineering Testing, Inc., for the sum of not to exceed \$15,000 from the self insurance fund, for an investigation of the former Duluth Dump Site No. 3, located at Sixth Avenue East and Tenth Street in Duluth, said agreement on file in the office of the city clerk as Public Document No. 97-0728-10.

Resolution 97-0652 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on portions of Ramsey Street and 58th Avenue West between Grand Avenue and Central Avenue on August 1, 1997, in conjunction with Spirit Valley Days, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 97-0655 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0627, by Councilor Bohlmann, confirming appointments of Marcus Snow and Donna Scorse to board of zoning appeals replacing Alan Adams and Richard Lepak, was introduced for discussion.

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

- - -

BY COUNCILOR BOHLMANN:

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

NEIGHBORHOOD ADVISORY COUNCIL

Fay Bibeau (West Duluth) and Denice Johnson (Lincoln Park/West End) for terms expiring March 1, 2000.

Resolution 97-0628 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of senior library technician which were approved by the civil service board on July 7, 1997, and which are filed with the city clerk as Public Document No. 97-0728-11, are approved.

Resolution 97-0632 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of senior lift station operator, including a title change to lift station supervisor, which are filed with the city clerk as Public Document No. 97-0728-12, 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 be Range 33 with rates of \$2,995 to \$3,565 per month and that said amendments shall be deemed effective on July 8, 1996.

Resolution 97-0635 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of sanitary services supervisor which were approved by the civil service board on February 6, 1996, and which are filed with the city clerk as Public Document No. 97-0728-13, 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 28, pay rate of \$2,424 to \$2,869 per month to Pay Range 33 with rates of \$2,995 to \$3,565 per month and that said amendments shall be deemed effective on July 8, 1996.

Resolution 97-0636 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city has received U.S. department of housing and urban development (HUD) funds under the HOME investment partnerships program (catalog of federal domestic assistance No. 14.239).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of the copy on file in the office of the city clerk as Public Document No. 97-0728-14 with HRA for administration of the fiscal year 1997 HOME program administration agreement in an amount not to exceed \$315,135, payable from federal HOME program Fund 260, Agency 020, Organization 2661, Object H003.

Resolution 97-0545 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0623, by Councilor Prettner Solon, authorizing an agreement with the Damiano Center to operate the Tenant's Union Project for \$23,000, was introduced for discussion.

Councilor Hales thanked Jean Gornick, executive director of the Damiano Center, for the memo regarding the plan for the operation of the Duluth Tenants Union for 1997-98 (Public Document No. 97-0728-21). She noted that the Tenants Union advisory board and the Damiano Center board will be meeting to discuss how they will proceed, and moved to table the resolution for more information, which motion was seconded and carried as follows:

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Prettner Solon, Rapaich and Young -- 7

Nays: Councilor Talarico and President Hardesty -- 2

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that Neighborhood Housing Services of Duluth, Inc. (NHS), is hereby authorized to apply for Minnesota housing finance agency (MHFA) funds on behalf of the city in the amount of \$300,000 from MHFA's community rehab fund program to be used by owners and new home purchasers for removal of blighted outbuildings and single family and duplex renovations.

Resolution 97-0626 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of right-of-way legally described as: alley adjacent to Lots 19-23, Block 35, Gary, First Division; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its July 8, 1997, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the alley as described above, and as more particularly described on Public Document No. 97-0728-15.

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

Resolution 97-0631 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

- - -

Resolutions 97-0633 and 97-0634, by Councilor Prettner Solon, affirming and reversing, respectively, the decision of the board of zoning appeals to deny a request to allow parking for 15 spaces on property located at 1710 East Superior Street, were introduced for discussion.

Councilor Prettner Solon moved to table the resolutions for more information, which motion was seconded and unanimously carried.



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Resolutions 97-0647 and 97-0648, by Councilor Prettner Solon, affirming and reversing, respectively, the decision of the board of zoning appeals to grant a request to allow the erection of a conforming pole/ground sign (eight feet tall by four feet wide) on a two feet to four feet tall planter with the stipulation that the illumination be exterior and that no commercial advertisements are permitted on said sign; the request for a 12 feet tall by eight feet wide pole sign was denied, were introduced for discussion.

Councilor Prettner Solon noted that as planning committee chair she supported Resolution 97-0647, but has mixed feelings about it.

Councilor Hogg pointed out that he understands Councilor Prettner Solon's feelings and pointed out that the board of zoning appeals did not have the latitude to make any other decision and that this was designed by the city architect. Councilor Hogg stated that it is important to have neighborhood pride and said he will support Resolution 97-0648.

Councilor Hales noted that this sign is an asset to the community club and will be a positive addition.

Resolution 97-0648 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the Central Hillside Community Club has appealed to the city council the decision of the board of zoning appeals to deny a request to allow a 12 feet x eight feet sign on property located at 12 East Fourth Street; and

WHEREAS, the city council has considered this appeal and determined that the required findings for granting of a variance to allow a 12 feet x eight feet sign can be made in this case based upon limits set forth in the zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the board of zoning appeals' decision of June 24, 1997, is hereby reversed by the city council and the appeal is granted.

Resolution 97-0648 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0656, by Councilor Prettner Solon, indicating the city's intent to acquire the Coleman Barge from the U.S. Army Corps of Engineers, was introduced for discussion.

Councilor Prettner Solon stated that she supported this resolution because it has historical significance for the community, that it is unique and that it will provide space not available now with the stage.

Councilor Hales noted that a barge in Ithica, New York, that this is being compared to, has had \$6 to \$7 million invested into it and that it is now being offered for sale. She said she does not believe that this is not a good expenditure of public funds.

Councilor Keenan stated that a unique, creatively designed stage should be built instead of this barge.

Councilor Bohlmann noted that her constituents have opposed this and stated she will not support it.

Resolution 97-0656 failed upon the following vote (Public Document No. 97-0728-20):

Yeas: Councilor Prettner Solon and President Hardesty -- 2

Nays: Councilors Bohlmann, Hales, Hogg, Keenan, Rapaich, Talarico and Young -- 7

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR KEENAN:

RESOLVED, that Larson Chevrolet Olds be and hereby is awarded a contract for furnishing and delivering one 1998 Chevrolet 3/4 ton 4-wheel drive pickup truck for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$22,339.68, terms net 30, FOB destination, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0505, Object V712.

Resolution 97-0645 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with the Minnesota department of economic security to accept \$10,143 in five percent older worker funds to provide JTPA employment and training services to Duluth eligible residents age 55 and over for the period July 1, 1997, through December 31, 1998. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 97-0728-16.

FURTHER RESOLVED, that monies received under this grant shall be deposited in Fund 268, Budget Item No. 6206.

Resolution 97-0630 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to accept \$44,407 in job training partnership act state supplemental funds from the Minnesota department of economic security to provide employment and training programs to TANF recipients making the transition from welfare to work. A copy of the notice of funds available (NFA) and the approved program plan shall be on file in the city clerk's office as Public Document No. 97-0728-17.

FURTHER RESOLVED, that monies received shall be deposited in Fund 268, Budget Item 6210.

Resolution 97-0650 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

RESOLVED, that proper city officers are hereby authorized to modify Agreement No. 17735 between the St. Louis County board of commissioners and the city of Duluth job training programs division by reducing the total S.T.R.I.D.E. program funds by \$27,339. Total S.T.R.I.D.E. program budget is decreased by \$27,339 to a total of \$543,991. A copy of this modification shall be on file in the city clerk's office as Public Document No. 97-0728-18.

FURTHER RESOLVED, that monies received under this modification shall be deposited in Fund 269, Budget Item 6274.

Resolution 97-0653 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to modify City Contract No. 17990

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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with Independent School District #709 for instructional services for the summer youth employment training program by modifying Budget Title IIB and replacing it with modified budget bearing budget modification date July 22, 1997, No. 1. Total contract amount is increased by \$1,400 to a total not to exceed \$31,400 and contract end date is extended through August 6, 1997. A copy of this modification shall be on file in the city clerk's office as Public Document No. 97-0728-19.

Resolution 97-0654 was unanimously adopted.  
Approved July 28, 1997  
GARY L. DOTY, Mayor

- - -

Resolution 97-0659, by President Hardesty, electing \_\_\_\_\_ to fill the vacancy in the position of vice president of the city council, was introduced for discussion.

Councilor Keenan nominated Councilor Prettner Solon, which motion was seconded.

Councilor Bohlmann nominated Councilor Hogg, which motion was seconded.

Councilor Young voiced support that the subsequent election in January would consider all councilors.

The voting was as follows:

For Councilor Hogg -- Councilors Bohlmann, Hales, Hogg and President Hardesty -- 4

For Councilor Prettner Solon -- Councilors Keenan, Prettner Solon, Rapaich, Talarico and Young -- 5

Councilor Hogg voiced his support for Councilor Prettner Solon and encouraged unanimous support for her.

Resolution 97-0659 was adopted as follows:

BY PRESIDENT HARDESTY:

RESOLVED, that Councilor Prettner Solon is hereby elected to fill the vacancy in the position of vice president of the city council.

Resolution 97-0659 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR YOUNG:

RESOLVED, that Minnesota Pipe and Equipment be and hereby is awarded a contract for furnishing and delivering valve boxes and parts for the water and gas department in accordance with specifications on its low specification bid of \$20,490.60, net 30, FOB destination, \$10,245.30 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227 and \$10,245.30 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 97-0644 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Utility Systems of America, Inc., be and hereby is awarded a contract for construction of sanitary sewer in 48th Avenue West and Oneota Street for the engineering division in accordance with specifications on its low specification bid of \$20,745, terms net 30,

FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5297, Object 5530.

Resolution 97-0641 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0642, by Councilor Talarico, awarding contract to Reuben Johnson and Son, Inc., for construction of sanitary sewer in 84th Avenue West and Grand Avenue in accordance with specifications on its low specification bid of \$29,040, was introduced for discussion.

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

Junior L. Carlson, one of the property owners, noted that he and the other property owner involved are aware of the increased cost and that they both agree to pay the increased assessment.

Resolution 97-0642 was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that Reuben Johnson and Son, Inc., be and hereby is awarded a contract for construction of a sanitary sewer in 84th Avenue West and Grand Avenue for the engineering division in accordance with specifications on its low specification bid of \$29,040, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5296, Object 5530.

Resolution 97-0642 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of Fourth Street Alley from 44th Avenue West to 45th Avenue West for the engineering division in accordance with specifications on its low specification bid of \$26,593.40, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5291, Object 5530.

Resolution 97-0643 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, it is deemed necessary for the public convenience and safety that a stone retaining wall on Skyline Parkway at Merritt Creek be reconstructed; and

WHEREAS, municipal state aid funds will not be eligible for this improvement if it is constructed as follows:

Skyline Parkway at Merritt Creek, 0.40 miles east of Haines Road

	<u>PROPOSED</u>	<u>SUBURBAN STATE AID STANDARDS</u>
DESIGN SPEED	30km/h	50km/h
RECOVERY AREA	0.90m	3m

unless a variance is granted from the commissioner of transportation in accordance with Minnesota Rules, Section 8820.9931.

BE IT RESOLVED, that the city of Duluth requests the commissioner of transportation for a variance from Section 8820.9931, c. and b., whereby the suburban state aid standards be reduced for this project from the stated standard of 50km/h design speed and a recovery area of 3m to the proposed speed of 30km/h, and 0.90m recovery area.

Resolution 97-0649 was unanimously adopted.

Approved July 28

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and Kelly Looby for an extension of her services as the project coordinator of the Central Hillside weed and seed program until December 31, 1997, for a consideration of \$1,430 biweekly, plus mileage, to be paid from Fund 100, Agency 200, Org. 2433, Object 5310.

Resolution 97-0639 was unanimously adopted.

Approved July 28, 1997

GARY L. DOTY, Mayor

- - -

## **INTRODUCTION AND CONSIDERATION OF ORDINANCES ORDINANCES TABLED**

BY COUNCILOR PRETTNER SOLON

97-003 - AN ORDINANCE AUTHORIZING EXECUTION OF DEVELOPMENT AGREEMENT WITH NORTH STAR FORD, L.L.C., AND AUTHORIZING SALE OF CERTAIN LANDS IN THE LINCOLN PARK BUSINESS DISTRICT.

Councilor Prettner Solon moved to remove the ordinance from the table, which motion was seconded and carried upon the following vote:

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

Nays: Councilors Bohlmann, Hales, Hogg and Young -- 4

Councilor Prettner Solon reviewed that the administration has reached an impasse in their negotiations and moved to refer the ordinance back to the administration, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR PRETTNER SOLON

97-012 - AN ORDINANCE REPEALING ARTICLE XVIII OF CHAPTER 2 OF THE CITY CODE, RELATING TO THE DULUTH SRO HOUSING COMMISSION.

Councilor Prettner Solon moved to remove the ordinance from the table, which motion was seconded and carried upon the following vote:

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

Nays: Councilors Bohlmann, Hales, Hogg and Young -- 4

Councilor Prettner Solon reviewed the background and need for this ordinance and encouraged support for it.

Councilor Hales reviewed that the council received a copy of a memo to HUD, assistant secretary for housing - federal housing commissioner from HUD district inspector general for audit - Southeast/Caribbean, regarding a Section 203(k) rehabilitation mortgage insurance program investigation which may affect the SRO commission, Duluth housing trust fund board and Center City Housing. Councilor Hales moved to table the ordinance because of the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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investigation and questions she has, which motion was seconded and carried as upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Talarico, Young and President Hardesty -- 7

Nays: Councilors Prettner Solon and Rapaich -- 2

- - -

The following ordinances were read for the first time:

BY COUNCILOR PRETTNER SOLON

97-022 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF PROPERTY LOCATED IN THE NORTHEAST QUARTER (NE¼) OF THE SOUTHWEST QUARTER (SW¼) OF SECTION FIVE (5), TOWNSHIP FORTY-EIGHT (48) NORTH, OF RANGE FIFTEEN (15) WEST, LOCATED IN ST. LOUIS COUNTY, MINNESOTA, TO JOHN DESMEDT AND GLORIA DESMEDT, HUSBAND AND WIFE, FOR CONSIDERATION OF \$3,800, PAYABLE TO GENERAL FUND 100, AGENCY 700, ORG. 1418, OBJ. 4640.

- - -

BY COUNCILOR PRETTNER SOLON

97-023 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO JAMES BARRETT FOR A PRIVATE UTILITY LINE IN 95TH ALLEY EAST OF LANIGAN BOULEVARD.

- - -

BY COUNCILOR PRETTNER SOLON

97-024 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 17 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF THE WESTERLY 33.3 FEET OF LOT 3, BLOCK 17, HAZELWOOD ADDITION TO ONEOTA, DULUTH FROM R-2 TWO FAMILY RESIDENTIAL TO C-2 HIGHWAY COMMERCIAL (STERNBERG).

- - -

The following ordinances were read for the second time:

BY COUNCILOR HOGG

97-020 (9341) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$525,000 GENERAL OBLIGATION TRANSIT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

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

- - -

BY COUNCILOR HOGG

97-021 (9342) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$100,000 GENERAL OBLIGATION RECREATION FACILITIES BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

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

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The meeting was adjourned at 8:50 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 9341**

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$525,000 GENERAL OBLIGATION TRANSIT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01 The City Council has determined it to be necessary and expedient and in the public interest that the Duluth Transit Authority purchase ten new transit buses.

1.02 Under the provisions of Minnesota Laws 1974, Chapter 130, the City Council may by ordinance provide for the issuance of general obligation bonds to provide the funds necessary to match state, private or federal grant funds for projects within the City's boundaries, which bonds are to be supported by the full faith and credit of the City and are to be issued subject to the provisions of Minnesota Statutes, Section 475, except that they may exceed the limitations in Minnesota Statutes, Section 475.53, by an amount not to exceed \$2,000,000, and they may not be issued if the City's contribution to the project, including the proceeds of the bonds, exceeds 60% of the total project cost where such contribution is used to match state or federal grants, or 70% where it is used to match government and private grants, or 80% where it is used to match private grants alone. The project is of the nature contemplated by said law. The Duluth Transit Authority has been awarded grants of federal funds in aid of the purchase of the buses, and it is estimated that such funds, together with any state or private funds which may be received, and the proceeds of bonds issued by the City in an amount not to exceed \$525,000, will be sufficient to pay the total project costs, and that the amount of the City's contribution, from the proceeds of the bonds or otherwise, will not exceed the limitations set forth in said law.

1.03 Pursuant to the authority herein recited, the City Council hereby authorizes and directs the issuance and sale of General Obligation Transit Bonds of the City of Duluth in an amount not to exceed \$525,000 (plus such additional amounts of bonds, if any, as the City Council shall by resolution determine to issue as additional obligations, representing part of the interest cost as authorized by Minnesota Statutes, Section 475.56), and pledges the full faith and credit and taxing powers of the City irrevocably for the payment of the principal and interest when due on such bonds.

Section 2. TERMS OF BONDS.

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

Section 3. REVENUES AND ACCOUNTS.

3.01 The City hereby creates the Duluth Transit Support Capital Improvement Fund to which there shall be credited all or a portion of the proceeds of the bonds, as provided by Council resolution, together with the grant funds and any additional funds which may be available and are appropriated for the improvement program or which may be advanced to such fund on condition that such amounts be reimbursed from bond proceeds.

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

Section 4. TAX LEVY.

4.01 There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City of Duluth, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than 5% in excess of the amounts of principal and interest on such bonds as such principal and interest respectively become due. Until the bonds to be issued hereunder are fully paid or duly called for redemption, the City will also maintain a separate transit bond debt service account within the debt service fund created by Section 54 of the City Charter, to be used solely for the payment of the interest and the principal, respectively, as such principal and interest become due and payable, on the bonds issued hereunder and on any other bonds which have been or may be issued and made payable from said account. If the balance is ever insufficient to pay all principal and interest then due on the bonds issued hereunder, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Transit Bond Debt Service Account when the balance therein is sufficient. All proceeds of said taxes are hereby appropriated and shall be paid when collected into such account. Said taxes shall be 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: August 31, 1997)

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

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

Nays: None -- 0

Passed July 28, 1997



ATTEST:  
JEFFREY J. COX, City Clerk

Approved July 28, 1997  
GARY L. DOTY, Mayor

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**ORDINANCE NO. 9342**

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$100,000 GENERAL OBLIGATION RECREATION FACILITIES 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 has undertaken development of city-wide soccer field additions and alterations. Portions of the costs of such project have been paid with private donations for improvements of such facilities and portions provided by bond proceeds from the City. In light of several unforeseen factors including erosion concerns, landscaping needs and safety considerations, additional funds are needed to complete such project, and a resolution of intent regarding financing these improvements was adopted by the City Council (Resolution No. 97-0382).

1.02. Under the provisions of Minnesota Laws 1974, Chapter 130, the City Council may by ordinance provide for the issuance of general obligation bonds to provide the funds necessary to match state, private or federal grant funds for projects within the City's boundaries, which bonds are to be supported by the full faith and credit of the City and are to be issued subject to the provisions of Minnesota Statutes, Chapter 475, except that they may exceed the limitations in Minnesota Statutes, Section 475.53, by an amount not to exceed \$2,000,000, and they may not be issued if the City's contribution to the project, including the proceeds of the bonds, exceeds 60% of the total project cost where such contribution is used to match state or federal grants, or 70% where it is used to match government and private grants, or 80% where it is used to match private grants alone. The recreation facilities projects are of the nature contemplated by said law. The City has received grant agreements for private donations in aid of the recreation facilities projects, and it is estimated that such funds, together with funds contributed by the City and the proceeds of bonds issued by the City in an amount not to exceed \$100,000, will be sufficient to pay the 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 authorizes and directs the issuance and sale of general obligation recreation facilities bonds of the City in an amount not to exceed \$100,000 (excluding any bonds issued representing part of the interest cost as authorized by Minnesota Statutes, Section 475.56), and pledges the full faith and credit and taxing powers of the City irrevocably for the payment of the principal and interest when due on such bonds.

Section 2. TERMS OF BONDS.

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

Section 3. REVENUES AND ACCOUNTS.

3.01 The City hereby creates a separate Construction Account within the Capital Improvements Account within the General Fund to which there shall be credited all or a portion of the proceeds of the bonds, as provided by Council resolution, together with the proceeds of such grant and any additional funds which may be available and are appropriated for the improvement program or which may be advanced to such account on condition that such amounts be reimbursed from bond proceeds.

3.02 The City Council shall, by resolution or resolutions, establish such further 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.

There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City of Duluth, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than 5% in excess of the amounts of principal and interest on such bonds as such principal and interest respectively become due. Until the bonds to be issued hereunder are fully paid or duly called for redemption, the City will also maintain a separate account in the Debt Service Fund created by Section 54 of the City Charter, to be used solely for the payment of the interest and the principal as such principal and interest become due and payable, on the bonds issued hereunder and on any other bonds which have been or may be issued and made payable from said funds. If the balance in such separate account of the Debt Service Fund is ever insufficient to pay all principal and interest then due on the bonds issued hereunder, the Treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient. All proceeds of said taxes are hereby appropriated and shall be paid when collected into such accounts. Said taxes shall be irrevocable until the bonds and interest are fully paid, except that if the City Council in any year shall make an irrevocable appropriation to said accounts of monies actually on hand, the City Clerk shall certify to the County Auditor of St. Louis County the fact and amount thereof, and the County Auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared. After this Ordinance has been published and becomes effective, the City Council shall by resolution fix the precise amounts of such tax levies to be placed upon the tax rolls for each of the respective years required to comply with the provisions of this Ordinance.

Section 5. CERTIFICATE OF PROCEEDINGS.

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

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

Section 6. EFFECTIVE DATE.

This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 31, 1997)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Prettnner Solon, Rapaich, Talarico, Young and President Hardesty -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed July 28, 1997

Approved July 28, 1997

GARY L. DOTY, Mayor

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**OFFICIAL PROCEEDINGS**

Special meeting of the Duluth City Council held on Thursday, August 7, 1997, 5:00 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hogg, Prettner Solon, Rapaich, Young and President Hardesty -- 7

Absent: Councilors Keenan and Talarico -- 2

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**MOTIONS AND RESOLUTIONS**

Resolution 97-0696, by Councilor Prettner Solon, authorizing execution of subordination and waiver agreements pertaining to the Cirrus project, was introduced for discussion.

Tom Cotruvo, business developer, explained that the action that the council is being asked to make is different than the action that Duluth economic development authority (DEDA) is required to make. He noted that this resolution pertains to two Minnesota economic recovery fund grants/loans that were conveyed to Cirrus via the city. He stated that \$100,000 of each of the two grant/loans need to be repaid to the city to be deposited in the 1200 Fund.

Responding to Councilor Hogg, Mr. Cotruvo stated that the subordination is to Midland National Life Insurance Company, which is the firm financing the expansion. He confirmed that the only risk that the city has is limited to the portion of the \$100,000 from each grant/loan that has not been paid.

To questioning by councilors Young and Hogg, William King, representing Cirrus Design, stated that all financial obligations of the company have been paid on time. He added that the closing is to take place in ten days and explained that this proposal has been in the works for some time, however, because of problems in obtaining the correct forms and generating the data they require, this is the earliest they could be submitted to the council for approval. With regard to getting the resolution approved before the deadline on Wednesday, Mr. King stated that the company is desperate for space and the building must be finished by December. He said that by delaying this action, the city risks putting itself, by default, in a first mortgage position, which amounts to \$7.5 million.

Councilor Hales requested written documentation with regard to who and what comprises Aileron L.L.C. She stated she is not comfortable voting on the resolution tonight and suggested tabling for consideration at the regular council meeting on Monday.

Responding to councilors Prettner Solon and Bohlmann, Robert Asleson, assistant city attorney, stated that if this project is not closed before September 1, it will collapse since, according to the financing documents for this project, it is required that the bonds must be paid by September 1 or the city will be in default. He explained how the project will be negatively affected if this project is not refinanced as proposed. He explained that Cirrus cannot get final FAA certification for design and construction of the airplanes until after the construction facility has been certified.

Councilor Hogg stated he did not see any harm in tabling the resolution until Monday since DEDA will not consider the issue until then. He moved to table the resolution, which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg and Young -- 4

Nays: Councilors Prettner Solon, Rapaich and President Hardesty -- 3

Absent: Councilors Keenan and Talarico -- 2

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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The meeting was adjourned at 5:20 p.m.

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

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, August 11, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hogg, Keenan, Prettnner Solon, Rapaich, Talarico, Young and President Hardesty -- 9

Absent: None -- 0

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0811-01 Carmen M. Hoff , et al. (seven signatures), petitioning for vacation of 49th Avenue East between Norwood Street and Glenwood Street. -- Assessor

97-0811-02 Susan and Scott Romans, et al. (five signatures), petitioning for vacation of 53rd Avenue East between Juniata Street and Glenwood Street. -- Assessor

97-0811-03 Minnesota state auditor submitting management and compliance report and financial statements for WLSSD for the year ended December 31, 1996. -- Received

97-0811-21 St. Paul's Episcopal Church submitted communication withdrawing their appeal of the board of zoning denial of their variance request. -- Received

97-0811-20 The following submitting communications pertaining to the proposed Mount Royal branch library (97-0651R): (a) Nancy Gruver and Joe Kelly; (b) Harriet J. Halli (supported by 12 signatures); (c) Erik and Colleen Johnson. -- Received

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**REPORTS OF OFFICERS**

97-0811-04 Assessor submitting amended assessment roll regarding 1996 delinquent garbage assessments. -- Received

97-0811-05 Building official submitting appeal of the board of zoning appeals' denial of a request to relax the side yard setback for a corner lot from 20 feet to five feet and to relax the rear yard setback from five feet to three feet for the construction of a new 30 foot by 24 foot detached garage on property located at 1907 Columbus Avenue (Johnson). -- Committee 2 (planning)

97-0811-06 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from Woman's Association of Duluth Superior Orchestra (WADSSO). -- Received

97-0811-07 Community development and housing division submitting HRA report for the HUD CD-funded housing rehabilitation programs for: (a) April; (b) May, 1997. -- Received

97-0811-08 Engineering division submitting monthly project status report for August 1, 1997. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

97-0811-09 Alcoholic beverage board minutes of: (a) May 21; (b) June 3; (c) June 18; (d) July 8, 1997, meetings. -- Received

97-0811-10 Citywide citizens advisory committee minutes of July 22, 1997, meeting. -- Received

97-0811-11 Civil service board minutes of: (a) July 7; (b) July 16, 1997, meetings. -- Received

97-0811-12 Duluth airport authority: (a) Balance sheet of May 31, 1997; (b) Minutes of June 17, 1997, meeting. -- Received

97-0811-18 Duluth housing trust fund board minutes of: (a) May 8; (b) June 12; (c) June 26, 1997, meetings. -- Received

97-0811-13 Duluth transit authority: (a) Minutes of May 28, 1997, meeting; (b) Financial statement of May, 1997; (c) Income statement of May, 1997. -- Received

97-0811-14 Housing and redevelopment authority of Duluth minutes of June 24, 1997, meeting. -- Received

97-0811-19 Human rights commission year end report for 1996/1997. -- Received

97-0811-15 Lawful gambling commission minutes of: (a) May 13; (b) June 10; (c) June 19, 1997, meetings. -- Received

97-0811-16 Sanitary sewer board of WLSSD minutes of July 21, 1997, meeting. -- Received

97-0811-17 Seaway Port authority of Duluth minutes of: (a) April 24; (b) May 23, 1997, meetings. -- Received

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### **OPPORTUNITY FOR CITIZENS TO BE HEARD**

Tom Haney spoke regarding Lincoln Park and how he felt the city fails constantly in maintaining it. He stated that Portland Square is the most heavily used park in the city according to the parks department, but there are no bathrooms in the park. Mr. Haney suggested renting portable restrooms to allow more usage of the park. He said he has contacted the parks department regarding this issue, but has received no response.

President Hardesty requested the administration to look into this issue.

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Mel Heinrich spoke regarding Interstate 35 and said it should be completed all the way through to 60th Avenue East.

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### **RESOLUTIONS TABLED**

Councilor Bohlmann moved to remove Resolution 97-0627, confirming appointments of Marcus Snow and Donna Scorse to board of zoning appeals replacing Alan Adams and Richard Lepak, from the table, which motion was seconded and unanimously carried.

Resolution 97-0627 was adopted as follows:

BY COUNCILOR BOHLMANN:

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

#### BOARD OF ZONING APPEALS

Marcus Snow for a term expiring July 31, 2001, replacing Alan Adams.

Donna M. Scorse for a term expiring July 31, 2001, replacing Richard Lepak.

Resolution 97-0627 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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Councilor Prettner Solon moved to remove Resolutions 97-0633 and 97-0634, affirming and reversing, respectively, the decision of the board of zoning appeals to deny a request to allow parking for 15 spaces on property located at 1710 East Superior Street, from the table, which motion was seconded and unanimously carried.

Councilor Prettner Solon moved to return the resolutions back to the administration as the board at St. Paul's Episcopal Church has decided to withdraw their appeal, which motion was seconded and unanimously carried.

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Councilor Prettner Solon moved to removed Resolution 97-0696, authorizing execution of subordination and waiver agreements pertaining to the Cirrus project, from the table, which motion was seconded and unanimously carried.

Councilor Hales thanked councilors for tabling the resolution so that some councilors could tour Cirrus and thought that Cirrus is an asset for our community and an exciting project for the city.

In response to Councilor Hogg, Councilor Prettner Solon stated that the Duluth economic development authority (DEDA) unanimously approved this project.

In response to Councilor Bohlmann, Assistant City Attorney Asleson stated that the living wage ordinance would not be applicable for this project because the original agreements were signed in March of 1997 and the ordinance had not yet been passed. He said that there is no new financial aid included in these agreements.

Councilor Young stated that he thought this is an exciting project for Duluth.

Councilor Bohlmann expressed concern about the use of the money and that the city has to be a subordinate in these agreements.

Resolution 97-0696 was adopted as follows:

**BY COUNCILOR PRETTNER SOLON:**

**RESOLVED**, that the proper city officials are hereby authorized to enter into the subordination and waiver agreements substantially in the form of those on file in the office of the city clerk as Public Document Nos. 97-0811-22(a) and 97-0811-22(b) with Industrial Resources Corporation and Aileron L.L.C., subordinating the city's position on two combined mortgages, security agreements and fixture financing statements, filed in the St. Louis County recorder's office as Document Nos. 580,404 and 580,405 respectively, securing two loans/grants from the Minnesota department of trade and economic development for the Cirrus project totaling \$500,000 and waiving the applicable due on sale requirements.

Resolution 97-0696 was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Approved August 11, 1997

GARY L. DOTY, Mayor

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### **MOTIONS AND RESOLUTIONS**

Resolution 97-0690, by Councilor Hogg, authorizing the issuance and establishing the terms and providing for the public sale of general obligation bonds, Series 1997, was introduced for discussion.

In response to Councilor Bohlmann, Finance Department Director Torvinen stated that the city is refinancing because it will save \$120,000 a year on payments due to the lower interest payment.

Resolution 97-0690 was adopted as follows:

**BY COUNCILOR HOGG:**

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

(a) Authorization of Bonds. It is hereby found, determined and declared to be necessary, and in the best interests of the City and its residents, that the City should issue its general obligation bonds for the following purposes:

(1) \$6,850,000 General Obligation Improvement Bonds, Series 1997A, are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475 and the City Charter, for the purpose of financing local public improvements and for the payment of part of the interest cost of such bond issue;



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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(2) \$625,000 General Obligation Bonds, Series 1997B, are hereby authorized and shall be issued for the purpose of (i) financing costs of the Duluth Transit Authority to purchase ten new buses, as authorized by Laws of Minnesota 1974, Chapter 130, and Ordinance No. 9341, adopted July 28, 1997, and (ii) financing the remaining project costs for the city-wide soccer field additions and alterations, as authorized by Laws of Minnesota 1974, Chapter 130, and Ordinance No. 9342, adopted July 28, 1997;

(3) General Obligation Tax Increment Refunding Bonds, Series 1997C, in the approximate principal amount of \$3,050,000 are hereby authorized and shall be issued pursuant to Minnesota Statutes, Chapter 475, for the purpose of refunding the outstanding principal balance of the City's General Obligation Tax Increment Bonds, Series 1991A, dated March 1, 1991;

(4) General Obligation Water Utility Refunding Bonds, Series 1997D, in the approximate principal amount of \$2,455,000 are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475, for the purpose of refunding the outstanding principal balance of the City's General Obligation Water Utility Revenue Bonds dated October 1, 1991;

(5) General Obligation Zoo Refunding Bonds, Series 1997E, in the approximate principal amount of \$3,285,000, are hereby authorized and shall be issued pursuant to Minnesota Statutes, Chapter 475, for the purpose of refunding the outstanding principal balance of the City's General Obligation Zoo Bonds of 1992 dated March 1, 1992;

(collectively referred to as the "Bonds");

(b) Issuance and Sale of Bonds. The terms and conditions of the Bonds and the sales of each individual series thereof are set forth in the Official Terms of Offerings, which are attached hereto as Exhibits A, B, C, D and E. Each and all of the terms and provisions set forth in the Official Terms of Offering are adopted and confirmed as the terms and conditions of the Bonds and the sales thereof, and the City Council shall meet at the time and place fixed herein to consider proposals for the purchase of the Bonds;

(c) Negotiated Sale. Evensen Dodge, Inc., independent financial advisor to the City, is hereby authorized to solicit proposals for the sale of the Bonds as provided by Minnesota Statutes, Section 475.60, subdivision 2(9);

(d) Tax Increment Pledge Agreement. The principal and interest on the General Obligation Tax Increment Bonds, Series 1991, is payable from tax increment pursuant to a Tax Increment Pledge Agreement between the City and the Duluth Economic Development Authority. The sale of refunding bonds for such issue is subject to approval by the City and DEDA of a satisfactory amendment or addendum to such pledge agreement;

(e) 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 97-0690 was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 97-0811-04, which is levied to defray in full the expense of solid waste collecting during the period of March 1, 1996, to June 1, 1997, for which the licensed collector has not been reimbursed as provided for in Chapter 24 of the Duluth City Code, is hereby confirmed.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Resolution 97-0695 was unanimously adopted.  
Approved August 11, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Vari-Tech Industries be and hereby is awarded a contract for furnishing and delivering four salt brine production systems for the street maintenance division in accordance with specifications on its low specification bid of \$28,290.25, terms net 30, FOB shipping point, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2107, Object E736.

Resolution 97-0667 was unanimously adopted.  
Approved August 11, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license by the liquor control commissioner, subject to departmental approvals and any specific restrictions:

Northland Country Club, 3901 East Superior Street, for August 20, 1997, with Bill Roberts, manager.

Resolution 97-0671 was unanimously adopted.  
Approved August 11, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale club licenses and issues on sale Sunday licenses for the period beginning September 1, 1997, and ending August 31, 1998, subject to departmental approvals and the payment of sales and property taxes:

Duluth Curling Club, Inc. (Duluth Curling Club), 327 Harbor Drive, for an on sale club license and on sale Sunday license.

American Legion Post #71, 5814 Grand Avenue, for an on sale club license and on sale Sunday license.

Ridgeview Country Club, 700 West Redwing Street, for an on sale club license.

Resolution 97-0672 was unanimously adopted.  
Approved August 11, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and issues an on sale Sunday license for the period beginning September 1, 1997, and ending August 31, 1998, subject to departmental approvals and the payment of sales and property taxes:

Plaza Concepts, Inc. (Canal Park Bar & Grill), 345 Canal Park Drive, with Vern Landreville, 50 percent stockholder and Wayne Belisle, 50 percent stockholder, transferred from Ridgeview Country Club, 700 West Redwing Street.

Resolution 97-0673 was unanimously adopted.  
Approved August 11, 1997

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale wine license and on sale nonintoxicating malt liquor license for the period ending August 31, 1997, subject to departmental approvals:

Just Take Action, Inc. (Fitgers Brewhouse), 600 East Superior Street.

Resolution 97-0674 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that pursuant to Minnesota Statutes 204A.21, the following persons are hereby appointed as election judges in the respective precincts for the municipal and school board primary election on September 9, 1997, as listed in Public Document No. 97-0811-24.

RESOLVED FURTHER, that pursuant to Minnesota Statute, 204B.31(d), election judge chairmen shall be compensated at the rate of \$6 per hour and nonchairman election judges shall be compensated at the rate of \$5.25 per hour. In addition, election judges carrying supply returns shall be compensated for mileage at the rate of \$.315 per mile; payable from General Fund 015-1512-5441.

Resolution 97-0675 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that pursuant to Minnesota Statutes 204B.16, the following locations are designated as polling places for the September 9, 1997, municipal and school board primary election and November 4, 1997, for the municipal and school board general election:

POLLING PLACE LIST

<u>POLLING PLACE</u>	<u>ADDRESS</u>
1. St. Michael's Catholic Church (lower level)	4901 East Superior Street
2. Portman Square	4601 McCulloch Street
3. Lakeside Presbyterian Church (lower level)	4430 McCulloch Street
4. Lutheran Church of the Good Shepherd (lower level)	45th Avenue East and Colorado Street
5. Lakeview Covenant Church (lower level)	1001 Jean Duluth Road
6. Woodland Community Club	3211 Allendale Avenue
7. Woodland Community Club	3211 Allendale Avenue
8. Glen Avon Presbyterian Church (Fellowship Hall)	2105 Woodland Avenue
9. Duluth Congregational Church (lower level)	3833 East Superior Street
10. Mt. Olive Lutheran Church (lower level)	2010 East Superior Street
11. Pilgrim Congregational Church (lower level)	2310 East Fourth Street
12. Woodland Junior High School (auditorium)	Clover and Eighth Street

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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|---|-------------------------------------|
| 13. U.M.D. Kirby Student Center (Garden Room)               | 10 University Drive                 |
| 14. Kenwood School (gym)                                    | Kenwood Avenue and Maryland Avenue  |
| 15. Chester Park United Methodist Church<br>(lower level)   | 819 North 18th Avenue<br>East       |
| 16. Prince of Peace Fellowship Church                       | 1824 East First Street              |
| 17. United Baptist Church (lower level)                     | 830 East First Street               |
| 18. Trinity Lutheran Church (avenue entrance)               | 1108 East Eighth Street             |
| 19. Trinity Lutheran Church (avenue entrance)               | 1108 East Eighth Street             |
| 20. Peace Church (Tenth Avenue entrance)                    | 1015 East 11th Street               |
| 21. First United Methodist Church<br>(Lakeview Social Hall) | 230 East Skyline Parkway            |
| 22. Washington Center (gym)                                 | 310 North First Avenue West         |
| 23. Senior Citizen Community Center<br>(auditorium)         | 211 North Third Avenue East         |
| 24. Duluth Public Library (Green Room)                      | 520 West Superior Street            |
| 25. Lafayette Square (upper level)                          | 3026 Minnesota Avenue               |
| 26. St. Peter's Catholic Church (lower level)               | 818 West Third Street               |
| 27. Duluth Heights Community Club                           | 33 West Mulberry Street             |
| 28. West End Senior Center (lower level)                    | 2014 West Third Street              |
| 29. Temple Baptist Church (lower level)                     | 2202 West Third Street              |
| 30. Piedmont Elementary School<br>(gym - rear entrance)     | 2827 Chambersburg Avenue            |
| 31. St. Lawrence Church                                     | 2410 Morris Thomas Road             |
| 32. Harrison Community Club                                 | 3002 West Third Street              |
| 33. Lutheran Church of Christ the King<br>(alley entrance)  | 4219 Grand Avenue                   |
| 34. Faith Haven (recreation room)                           | 4901 Grand Avenue                   |
| 35. Elim Lutheran Church (social hall)                      | 6101 Cody Street                    |
| 36. Irving Recreation Center                                | 20 South 57th Avenue West           |
| 37. Bethany Baptist Church (social hall)                    | 6700 Grand Avenue                   |
| 38. Bayview Heights School (gym)                            | 8702 Vinland Street                 |
| 39. Riverside Community Club                                | Cato Avenue and Manitou<br>Street   |
| 40. Goodfellowship Community Center<br>(warming area)       | 1242-88th Avenue West               |
| 41. Stowe School (gym)                                      | 715 - 101st Avenue West             |
| 42. Fond du Lac Recreation Center                           | 131st Avenue West and<br>Highway 23 |

BE IT FURTHER RESOLVED, that under the authority of Ordinance 8728, an absentee ballot board shall be in effect and utilized as allowed for under Minnesota Statutes for the September 9, 1997, and November 4, 1997, 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, 1997, and November 4, 1997, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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bodily injury or property damage arising out of the use of such building as a polling place, but subject to municipal liability limits contained in state law.

Resolution 97-0676 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals:

Duluth Softball Players Association (State Men's Class C Tournament), Wheeler Field, with John Vaydich, manager.

Resolution 97-0677 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Resolution 97-0117 to MacQueen Equipment for furnishing O.E.M. parts and repairs for Hi-Way sand spreader and Elgin sweeper as needed during 1997, be amended to increase the amount by \$10,000 for a new total of \$25,000, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 97-0685 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

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

NEIGHBORHOOD ADVISORY COUNCIL

Daniel Nyquist (Lincoln Park, West End), for a term expiring March 1, 1999, replacing Dan Williams who resigned.

Resolution 97-0670 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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Resolution 97-0651, by Councilor Prettner Solon, authorizing proper city officials to enter into an agreement with PLB LLC to provide leased premises for a branch library facility at Mount Royal Center at an annual cost of \$102,240 and to construct improvements to the leased premises at a cost of \$195,000, was introduced for discussion.

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

Tom Haney stated that if the city is encouraging neighborhood activities, it should make the libraries accessible to the neighborhoods. He felt keeping the libraries local would help children stay away from heavily traveled streets. Mr. Haney also said that the University of Minnesota-Duluth (UMD) will be increasing the size of their library, so citizens could use that facility as it is handicapped accessible.

Inez Lillejord spoke in support of neighborhood libraries and stated that she uses them weekly. She said she feels that they are the perfect size for the kids. Ms. Lillejord also stated that the Mount Royal area streets are too busy for kids to be riding bikes safely to the library.

Nancy Crosby stated that the Woodland library is in terrible condition and that the city owes more than that to its existing old buildings. She felt that the city needs to put neighborhoods first before doing anything Downtown and for the tourists. Ms. Crosby felt that the proposed Mount Royal library will be used too much by UMD students. She also felt that parking is not an issue as there is plenty of parking at both Woodland and Lester Park.

Maureen Strange, resident of Lakeside and a member of the library board, stated that the board voted unanimously on this proposal. She said the board's main concerns are that neither of the libraries are accessible to the handicapped and the hours are not conducive to working people. Ms. Strange also expressed concern that the people who support the project may not be speaking out and only the negative opinions are being expressed.

Terry Teich spoke in support of the library proposal as a way for the city to expand services for the neighborhood. She said the new facility will be more accessible to the people in the community and have better hours.

Kay Biga expressed the following reasons for supporting the project: it would be a handicapped accessible facility; it would bring new technologies to the neighborhood; it would be a central location for all the neighborhoods; parking would be an asset. She stated that with libraries changing rapidly, leasing the property might be better way to go until it is known if the building site will work.

Jeff Brown stated he values the ability to walk to neighborhood businesses and that the libraries should stay to preserve the amenities they provide.

Randy Virta stated that he has spoken to residents in the area and suggested keeping the libraries open, but open a smaller facility in Mount Royal.

Councilor Keenan said that during the council priority issue meetings, supporting neighborhood services was eighth on the list. He felt that the administration is working hard to do this. Councilor Keenan stated that the city has to look at this as more than just a financial decision; that the city has to invest in the neighborhood with money, much like it does with community development block grant (CDBG) funds in the Hillside, and make capital improvements to Council District 1. He said that he is not convinced the city should lease the building, as it is too close to UMD and on a busy intersection.

Councilor Hogg stated the city has to decide what gives the neighborhood the most services and that the two buildings are deteriorating, not ADA approved and only open 13 hours a week. He felt this is a win-win situation for the city by having a combined library for both neighborhoods, but expressed concern about the rental of the building for the next ten years.

Councilor Rapaich stated her district has lost community services when the senior center and library were built in West Duluth, but the use of this facility is up.

Councilor Bohlmann stated that this proposal would be a loss for children and the neighborhood. She felt library hours need to be expanded and the continued maintenance on the buildings should not give the administration an excuse to build a new facility.

Councilor Hales expressed concern that UMD students using the facility would not allow the children or adults to use the facilities.

Councilor Young felt that remodeling the existing buildings is a more economical way to go.

Councilor Prettner Solon reviewed the yearly cost and stated that library services are changing so dramatically it is hard to anticipate if the building will be up to date in ten years. She said that change is difficult, but that she supports the resolution.

President Hardesty stated that the city may be closing two libraries, but opening the future by creating a place equipped to serve people in the 21st Century. She continued saying that the mission of a library is to provide information, resources, and a variety of education and technology

to all people, and this new facility will be able to serve that mission. President Hardesty continued saying that this site would be a good place for other community services to locate in the future, such as senior and recreation centers.

Councilor Talarico felt there is a need for a senior facility in the eastern part of the city like there is in West Duluth and that he is concerned the city is spending too much and not getting enough, but will support the resolution.

Councilor Keenan stated that if the citizens need and want more hours and staff at the local libraries, it could be done now, and it should have been done long ago. Since so many councilors have stated their concerns on the project, Councilor Keenan urged councilors not to vote on the project tonight and have it come back at a later date when more of the questions can be answered.

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At this time, 9:00 p.m., Councilor Hogg left his seat.

- - -

Councilor Keenan moved to table the resolution, which motion passed upon the following vote:

Yeas: Councilors Bohlmann, Hales, Keenan, Rapaich, Talarico and Young -- 6

Nays: Councilor Prettner Solon and President Hardesty -- 2

Absent: Councilor Hogg -- 1

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, Section 45-4.1 of the Duluth City Code, 1959, as amended, allows the city council, by resolution, to allow the placement of objects or material on the public sidewalks or boulevard areas where the city council finds that such objects will not substantially interfere with pedestrian traffic and that the placement of such objects is beneficial to the public welfare; and

WHEREAS, the Fitger's Brewhouse has requested permission to place tables and chairs on the sidewalk of the Superior Street right-of-way in front of the Fitger's property located at 600 East Superior Street, property described as Superior Street right-of-way adjacent to Lot 1, Fitger's Addition to Duluth; and

WHEREAS, per Section 45-4.1, the city planning commission has reviewed this request and considered the comments and recommendations of the director of public works and recommends the conditional placement of the tables and chairs.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, that the Fitger's Brewhouse (Rodney Raymond) is hereby permitted to place up to nine tables and 36 chairs in accordance with the drawing identified as Public Document No. 97-0811-26(a) on or within the sidewalk area of the right-of-way of East Superior Street, in the city of Duluth, subject to the following conditions:

(a) That the tables and chairs shall conform to those described in Public Document No. 97-0811-26(b);

(b) That the permit to use said easement area is not exclusive and that the city may require the applicant to remove the tables and chairs at no cost to city for specific events conducted in the 600 block of East Superior Street area;

(c) That the applicant shall be responsible for collecting and properly disposing of refuse resulting from the use of the easement area permitted hereunder and refuse found in the immediate area of such use;

(d) That the placement of the tables and chairs shall be located within the approved sidewalk area during the hours of operation of the brewery and cafe and shall be removed from the sidewalk when the business is closed;

(e) The tables and chairs permitted hereunder shall be located only in the area specified on Public Document No. 97-0811-26(a);

(f) That this permit shall be revocable at no cost to the city on 30 days notice upon determination by the city council that the permitted use unduly burdens the otherwise customary use of the easement for its intended purpose.

Resolution 97-0658 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth desires to complete Phase II improvements to the site and building at Morgan Park Goodfellowship Club; and

WHEREAS, the city desires to hire a consulting architect/engineer to provide the services required to make such improvements; and

WHEREAS, LHB Engineers & Architects has submitted a proposal for Phase II architectural/engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB Engineers & Architects to provide the city with such full engineering services.

BE IT FURTHER RESOLVED, that the cost of said services, estimated at \$13,860, will be payable from the Community Development Fund 262, Dept./Agency 620, Object 6008.

Resolution 97-0686 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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At this time, 9:10 p.m., Councilor Hogg returned to his seat.

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Resolution 97-0687, by Councilor Prettner Solon, authorizing payment to Washington Studios Cooperative for insurance coverage on Washington Center/Washington Studios for the period November 30, 1996, through November 30, 1997, in the amount of \$7,393.81, payable from the General Fund 100-500-1950-5319, was introduced for discussion.

Councilor Hales moved to table the resolution for further information, which motion failed upon the following vote:

Yeas: Councilors Bohlmann, Hales, Keenan and Young -- 4

Nays: Councilors Hogg, Prettner Solon, Rapaich, Talarico and President Hardesty -- 5

Responding to Councilor Hales' questioning the high cost of the insurance and why the city is covering 40 percent of the building, Administrative Assistant Nollenberger explained that according to the operating agreement the city has with Artspace, the city is responsible for 40 percent of the overall square footage of the building, and this resolution is the property insurance for our share of the insurance cost.

Responding to Councilor Bohlmann's questioning why the resolution says the insurance is from November of 1996, Mr. Nollenberger replied that the city reimburses Bowman Management Company, who is responsible for obtaining the property insurance, and that they are late in getting the cost to the city for reimbursement for our share of the property insurance. To further questioning by Councilor Bohlmann regarding liability, Assistant City Attorney Smedberg replied that the city is indemnified so that the city is not able to be sued and it is carried under our self insurance fund.



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Resolution 97-0687 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officers are authorized to pay to Washington Studios Cooperative for insurance coverage on Washington Center/Washington Studios for the period November 30, 1996, through November 30, 1997, the amount of \$7,393.81, which amount is payable from General Fund 100-500-1950-5319.

Resolution 97-0687 was adopted upon the following vote:

Yeas: Councilors Hogg, Keenan, Prettner Solon, Rapaich, Talarico, Young and President Hardesty -- 7

Nays: Councilors Bohlmann and Hales -- 2

Approved August 11, 1997

GARY L. DOTY, Mayor

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At this time, 9:30 p.m., Councilor Hales left her seat.

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officers are hereby authorized to enter into an amendment of lease to that lease agreement dated August 27, 1993, Document No. 16841 between the state of Minnesota, department of administration and the city of Duluth for the rental of office space in Duluth city hall for the sum of \$4,312.56 per year for three years, said amendment of lease on file in the office of the city clerk as Public Document No. 97-0811-27, said funds to be deposited in General Fund 100-500-1950-4612.

Resolution 97-0688 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that Denny's Lawn and Garden be and hereby is awarded a contract for furnishing and delivering 34 trees for the street/park maintenance division in accordance with specifications on its low specification bid of \$7,376.19, terms net 30, FOB destination, payable out of Community Development Fund 262, Dept./Agency 620, Object 6015.

Resolution 97-0694 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0665, by Councilor Young, awarding contract to Viele Contracting, Inc., for construction of a storm sewer in West 12th Street in accordance with specifications on its low specification bid of \$15,398, was introduced for discussion.

Councilor Hogg moved to table the resolution until a map is supplied, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Keenan -- 1

Absent: Councilor Hales -- 1

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At this time, 9:35 p.m., Councilor Hales returned to her seat.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR YOUNG:

RESOLVED, that various vendors (Johnston - \$13,983.54; Pameco Corporation - \$20,184.22; Capp, Inc., - 19,657.59; Goodin Company - \$16,159.25) be and hereby are awarded contracts for furnishing and delivering 1997/1998 furnace repair parts for the gas service division in accordance with specifications on their low specification bid of \$69,984.60, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0565, Object 5219.

Resolution 97-0666 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR YOUNG:

RESOLVED, that Johnson Controls, Inc., be and hereby is awarded a contract for providing telemetry system maintenance for the water and gas department in accordance with specifications on its low specification bid of \$15,000, terms net 30, FOB destination, \$5,100 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5404 and \$9,900 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5404.

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

Resolution 97-0669 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR YOUNG:

RESOLVED, that Tension Envelope Corporation be and hereby is awarded a contract for furnishing and delivering 500,000 envelopes with windows for the water and gas department and sewer division in accordance with specifications on its low specification bid of \$14,894.03, terms net 30, FOB shipping point; \$3,723.51 payable out of Water Fund 510, Dept./Agency 900, Organization 0515, Object 5200; \$7,447.02 payable out of Gas Fund 520, Dept./Agency 900, Organization 0515, Object 5200 and \$3,723.50 payable out of Sewer Fund 530, Dept./Agency 500, Organization 0515, Object 5200.

Resolution 97-0693 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to make traffic improvements along Woodland Avenue and 21st Avenue East (City Job No. 8893TR94); and

WHEREAS, the city desires to hire a consulting engineer to provide construction engineering services; and

WHEREAS, Seaway Engineering Co. has submitted a proposal for construction engineering services in connection with the project which is on file in the office of the city clerk as Public Document No. 97-0811-28;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized to enter into an agreement with Seaway Engineering Co. to provide the city with engineering services as outlined in Public Document No. 97-0811-28.

BE IT FURTHER RESOLVED, that the cost of said engineering services, not to exceed \$69,740, will be payable from the Permanent Improvement Fund 411, Agency 035, Organization

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2156, Object 5303; to be reimbursed from MSA (municipal state aid) funds.

Resolution 97-0662 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, by Application and Permit No. 179, the city engineer granted Cedar Drive Excavating permission to reconstruct Chester Way from Missouri Avenue to approximately 150 feet westerly, using new alignment (City Job No. 9005RS97); and

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

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

Resolution 97-0663 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, by Application and Permit No. 173, the city engineer granted Nels Nelson & Sons, Inc., permission to construct a sanitary sewer in Waseca Industrial Park (City Job No. 8943SA96); and

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

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

Resolution 97-0664 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that United Electric Company be and hereby is awarded a contract for furnishing and delivering annual electrical supplies for the building maintenance division in accordance with specifications on its low specification bid of \$9,251.71, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5220.

Resolution 97-0668 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to reconstruct Kenwood Avenue from Maryland Street to Catherine Street under the 1998 street improvement program (City Job No. 8990RS97); and

WHEREAS, the city desires to hire a consulting engineer to provide professional engineering services for preliminary survey and base map preparation; and

WHEREAS, Salo Engineering, Inc., has submitted a proposal for professional engineering services in connection with the project which is on file in the office of the city clerk as Public Document No. 97-0811-29.

BE IT RESOLVED, that the proper city officers are hereby authorized to enter into an agreement with Salo Engineering Inc., to provide the city with engineering services as outlined in Public Document No. 97-0811-29.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BE IT FURTHER RESOLVED, that the cost of said engineering services, not to exceed \$6,000, will be payable from the Street Improvement Fund 440, Agency 038, Organization 9807, Object 5530.

Resolution 97-0678 was unanimously adopted.  
Approved August 11, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to reconstruct the streets in the Endion upper east neighborhood as part of the 1998 street improvement program (City Job No. 8984RS97); and

WHEREAS, the city desires to hire a consulting engineer to provide professional engineering services for preliminary survey and base map preparation; and

WHEREAS, LHB Engineers & Architects has submitted a proposal for professional engineering services in connection with the project which is on file in the office of the city clerk as Public Document No. 97-0811-30.

BE IT RESOLVED, that the proper city officers are hereby authorized to enter into an agreement with LHB Engineers & Architects to provide the city with engineering services as outlined in Public Document No. 97-0811-30.

BE IT FURTHER RESOLVED, that the cost of said engineering services, not to exceed \$15,622, will be payable from the Street Improvement Fund 440, Agency 038, Organization 9807, Object 5530.

Resolution 97-0679 was unanimously adopted.  
Approved August 11, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Duluth Superior Erection, Inc., be and hereby is awarded a contract for a traffic control signal system and turn lanes at Woodland Avenue and Snively Boulevard for the engineering division in accordance with specifications on its low specification bid of \$141,640.80, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2163, Object 5530.

Resolution 97-0680 was unanimously adopted.  
Approved August 11, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Utility Systems of America, Inc., be and hereby is awarded a contract for construction of a sanitary sewer in 57th Avenue West from Raleigh Street to Polk Street for the sewer division in accordance with specifications on its low specification bid of \$49,960.90, terms net 30, FOB job site, payable out of Sewer Construction Bond Fund 531, Dept./Agency 500, Object 5532.

Resolution 97-0682 was unanimously adopted.  
Approved August 11, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that MacQueen Equipment, Inc., be and hereby is awarded a contract for

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furnishing and delivering a sewer cleaning vehicle for the sewer division in accordance with specifications on its low specification bid of \$206,812.35, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 97-0689 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that J.R. Jensen and Son, Inc., be and hereby is awarded a contract for reconstruction of a retaining wall in Lincoln Park for the engineering division in accordance with specifications on its low specification bid of \$37,368.25, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2118, Object 5530.

Resolution 97-0692 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, a no parking zone is hereby established on the south side of Superior Street for 150 feet in front of the Duluth Woman's Club, 2400 East Superior Street.

Resolution 97-0657 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized and directed to enter into an agreement with St. Louis County, Lake County, Cook County, the city of Grand Marais, the city of Silver Bay, the city of Two Harbors, the city of Proctor, the city of Hermantown and the University of Minnesota-Duluth providing for the participation by the city of Duluth and other above named governmental agencies in the Lake Superior drug task force in the year of 1998, said agreement to be in the form of Public Document No. 97-0811-31, on file in the office of the city clerk.

Resolution 97-0660 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized to accept a grant from the U.S. department of justice in the amount of \$125,000 for project year July 1, 1997, to June 30, 1998. All grant funds will be deposited in General Fund 100, Agency 200, Org. 2441, Revenue Source 4210.

Resolution 97-0661 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Traill Communications be and hereby is awarded a contract for furnishing and delivering 13 stand alone and rackmount modems for the police department in accordance with

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specifications on its low specification bid of \$6,177, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 2439, Object 5241.

Resolution 97-0683 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that International Computer Marketing Corporation (I.C.M.) be and hereby is awarded a contract for furnishing and delivering nine ruggedized laptop computers for the police department in accordance with specifications on its low specification bid of \$35,512.43, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 2439, Object 5580.

Resolution 97-0684 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Danko Emergency Equipment Company be and hereby is awarded a contract for furnishing and delivering 50 personal alert safety systems for the fire department in accordance with specifications on its low specification bid of \$5,300, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 100, Organization 1502, Object 5241.

Resolution 97-0691 was unanimously adopted.

Approved August 11, 1997

GARY L. DOTY, Mayor

- - -

Councilor Talarico moved to reconsider Resolution 97-0651, by Councilor Prettner Solon, authorizing proper city officials to enter into an agreement with PLB LLC to provide leased premises for a branch library facility at Mount Royal Center at an annual cost of \$102,240 and to construct improvements to the leased premises at a cost of \$195,000, at this time, which motion was passed on the following vote:

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

Nays: Councilors Bohlmann and Keenan -- 2

Councilor Hogg thanked the council for the opportunity to vote on this issue. He reviewed that he had concerns with the lease, but it is more important to make a decision now and move forward in the community with this project. By improving the library, Councilor Hogg stated that the citizens will benefit with a better facility, as a library is one of the most important central services a government can provide.

Councilor Bohlmann expressed concern on having to vote so soon on such a large project.

Councilor Prettner Solon said that by building this new library, the administration stated in a memo that \$600,000 will be freed up in the capital improvement fund in future budgets, and that hopefully this money could be earmarked for a multi-use facility in Council District 1. She also felt that this is a good location for the new library as it is in the middle of a neighborhood center.

Councilor Hales stated that the city will be closing two buildings, and that the issue will still have to be dealt with and a decision made as to what to do with them. She urged support for a multipurpose building in Council District 1 and not for support of this resolution.

Mayor Doty stated that the city has looked at several buildings in the east area that could be used as a multi-use building, but that nothing as worked out. He continued saying that this is a cost versus benefit issue, and it is the best alternative available. Mayor Doty felt that once the facility is opened and people use the library, everyone will be pleased with the service that is being provided.

Councilor Keenan urged councilors to vote against this resolution as it is being pushed through the council. He stated that the council has an opportunity right now to work on a multipurpose facility instead of a library in the East End. Councilor Keenan also requested that a meeting be held with the residents so he could attend it and hear their concerns and then bring those concerns before the council.

Resolution 97-0651 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the city council hereby authorizes the proper city officials to enter into an agreement substantially in conformance with Public Document No. 97-0811-25, which agreement will provide for the lease of approximately 7,100 square feet of space for a branch library facility at Mount Royal Center and for certain leasehold improvements to be constructed within the leased space, the costs of said agreement to be paid from General Fund 100-500-1950-5412, building rental and Fund 450, capital projects fund.

Resolution 97-0651 was adopted upon the following vote:

Yeas: Councilors Hogg, Prettner Solon, Rapaich, Talarico and President Hardesty -- 5

Nays: Councilors Bohlmann, Hales, Keenan and Young -- 4

Approved August 11, 1997

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES  
ORDINANCE TABLED**

BY COUNCILOR PRETTNER SOLON

97-012 - AN ORDINANCE REPEALING ARTICLE XVIII OF CHAPTER 2 OF THE CITY CODE, RELATING TO THE DULUTH SRO HOUSING COMMISSION.

Councilor Prettner Solon moved to remove the ordinance from the table, which motion was seconded and carried upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Councilor Prettner Solon moved to send the ordinance back to the administration since it may take a year for this issue to be settled, which motion was seconded and unanimously carried.

- - -

The following entitled ordinance was read for the first time:

BY COUNCILOR BOHLMANN

97-026 - AN ORDINANCE AUTHORIZING AMENDMENTS TO JOB SPECIFICATIONS TO COMPLY WITH FEDERAL AND STATE ANTI-DISCRIMINATION LAWS, AMENDING SECTION 13-20 OF THE DULUTH CITY CODE.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR PRETTNER SOLON

97-022 (9344) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF PROPERTY LOCATED IN THE NORTHEAST QUARTER (NE¼) OF THE SOUTHWEST QUARTER (SW¼) OF

SECTION FIVE (5), TOWNSHIP FORTY-EIGHT (48) NORTH, OF RANGE FIFTEEN (15) WEST, LOCATED IN ST. LOUIS COUNTY, MINNESOTA, TO JOHN DESMEDT AND GLORIA DESMEDT, HUSBAND AND WIFE, FOR CONSIDERATION OF \$3,800, PAYABLE TO GENERAL FUND 100, AGENCY 700, ORG. 1418, OBJ. 4640.

Councilor Prettner Solon moved passage of the ordinance and the same was unanimously adopted.

- - -

BY COUNCILOR PRETTNER SOLON

97-023 (9345) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO JAMES BARRETT FOR A PRIVATE UTILITY LINE IN 95TH ALLEY EAST OF LANIGAN BOULEVARD.

Councilor Prettner Solon moved passage of the ordinance and the same was unanimously adopted.

- - -

BY COUNCILOR PRETTNER SOLON

97-024 (9346) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 17 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF THE WESTERLY 33.3 FEET OF LOT 3, BLOCK 17, HAZELWOOD ADDITION TO ONEOTA, DULUTH FROM R-2 TWO FAMILY RESIDENTIAL TO C-2 HIGHWAY COMMERCIAL (STERNBERG).

Councilor Prettner Solon moved passage of the ordinance and the same was unanimously adopted.

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The meeting was adjourned at 10:30 p.m.

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

- - -

**ORDINANCE NO. 9344**

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF PROPERTY LOCATED IN THE NORTHEAST QUARTER (NE $\frac{1}{4}$ ) OF THE SOUTHWEST QUARTER (SW $\frac{1}{4}$ ) OF SECTION FIVE (5), TOWNSHIP FORTY-EIGHT (48) NORTH, OF RANGE FIFTEEN (15) WEST, LOCATED IN ST. LOUIS COUNTY, MINNESOTA, TO JOHN DESMEDT AND GLORIA DESMEDT, HUSBAND AND WIFE, FOR CONSIDERATION OF \$3,800, PAYABLE TO GENERAL FUND 100, AGENCY 700, ORG. 1418, OBJ. 4640.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby conveys by quit claim deed its right, title and interest in and to real estate located in St. Louis County, Minnesota, hereinafter described to John DeSmedt and Gloria DeSmedt, husband and wife, for a consideration of \$3,800 plus closing costs, said amount to be deposited in the General Fund 100-700-1418-4640, subject to conditions set forth in Public Document No. 97-0811-23 on file in the office of the city clerk.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: September 21, 1997)

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



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed August 11, 1997  
Approved August 11, 1997  
GARY L. DOTY, Mayor

- - -

**ORDINANCE NO. 9345**

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO JAMES BARRETT FOR A PRIVATE UTILITY LINE IN 95TH ALLEY EAST OF LANIGAN BOULEVARD.

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 James Barrett, his successors and assigns, referred to herein as the permittees, to occupy, erect and maintain a private sewer line in that part of 95th alley west, adjacent to 15 North 95th Avenue West, as the same was dedicated to the use of the public on the plat of Riverside Park Second Addition, on file and of record in the office of the register of deeds in and for the St. Louis County, Minnesota, described as follows: 95th Alley West, adjacent to Lot 7, Block 18 and Lot 5, Block 20 Riverside Park Second Addition.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

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

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said private sewer line and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees and agree that such private sewer line shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said alley and agree that the city of Duluth shall not be liable for damage caused to such private sewer line 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such private utility line in said 95th Alley West.

Section 6. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 14, 1997)

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

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

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed August 11, 1997  
Approved August 11, 1997  
GARY L. DOTY, Mayor

- - -

**ORDINANCE NO. 9346**

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 17 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF THE WESTERLY 33.3 FEET OF LOT 3, BLOCK 17, HAZELWOOD ADDITION TO ONEOTA, DULUTH FROM R-2 TWO FAMILY RESIDENTIAL TO C-2 HIGHWAY COMMERCIAL (STERNBERG).

The city of Duluth does ordain:

Section 1. That Plate No.17 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

[MAP]  
[see page 367]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 14, 1997)

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

Yeas: Councilor Bohlmann, Hales, Hogg, Keenan, Prettner Solon, Rapaich, Talarico, Young and President Hardesty -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed August 11, 1997  
Approved August 11, 1997  
GARY L. DOTY, Mayor

- - -



**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, August 25, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of council meeting held on February 10 and 18, 1997, were approved upon a unanimous vote.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0825-01 Dan and Marlene Simonson submitting petition requesting that the easterly 20 feet of vacated Farrell Street adjacent to Lots 3, 4, 29 and 30 of Block 29 in Bailey's Rearrangement be removed from the present utility easement. -- Assessor

97-0825-02 Minnesota state auditor submitting audit report for the years ended April 30, 1997 and 1996, for Spirit Mountain recreation area authority. -- Received

97-0825-03 AFSCME, Local 66, submitting communication pertaining to the proposed study of combined automated meter reading systems for public utilities and Minnesota Power (97-0720R). -- Received

97-0825-04 The following submitting communications pertaining to closing the Woodland and Lester Park branch libraries (97-0651R): (a) Robert C. Franck; (b) Ann H. Hartley; (c) Pauline Haasenstab (supported by 23 signatures); (d) Inez Lilljord (supported by 219 signatures). -- Received

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**REPORTS OF OFFICERS**

97-0825-05 Assessor submitting letter of sufficiency to vacate a utility easement in the easterly 20 feet of vacated Farrell Street adjacent to Lots 3, 4, 29 and 30, Block 29, in Baileys Rearrangement of Hunters Grassy Point Addition. -- Received

97-0825-06 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from Regents of the University of Minnesota. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

97-0825-07 Planning commission minutes of: (a) July 8; (b) July 23, 1997, meetings. -- Received

97-0825-08 Sanitary sewer board of WLSSD minutes of August 11, 1997, meeting. -- Received

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**OPPORTUNITY FOR CITIZENS TO BE HEARD**

The following individuals spoke against a lease agreement previously approved by the council for the purpose of a constructing a library in the Woodland neighborhood: Heather Odden, Pauline Hassenstab, Alex Kramer, Inez Lillejord, Nancy Crosby, Randy Virta, Joanne Fay, Tom Paradice and Colleen Johnson.

Requests were made for the council to reconsider their actions and have the lease nullified until further information can be obtained. Concerns regarding the closing of the branch libraries in Lester Park and Lakeside were raised. Petitions (Public Document Nos. 97-0825-04(c) & (d))

supporting retention of the neighborhood libraries were submitted. Concerns for the safety of children in the area of Mount Royal were raised and it was noted that there are no sidewalks in the winter and that crossing is dangerous with the many vehicles turning off Woodland Avenue. Statements were made that this proposal does not support the neighborhood concept, which was emphasized as a targeted priority in 1995; and that the public had short notice and no opportunity to be heard with regard to this plan. Working with local schools was encouraged as an alternative to this proposed library in such a dangerous neighborhood. It was noted that an increase in city rent expenses will be the result of improvements required to construct this facility because higher property taxes will be assessed.

Dean Casperson, library board member, noted that the main purpose is to furnish new and updated resources to the community. He reminded councilors that residents did not want the old Carnegie Library Building closed either and noted new resources are available and being utilized by citizens.

Councilor Keenan stated that after attending a meeting in Lakeside, he believes the intent was to sell the issue and not get input from the neighborhoods. He added he was disappointed in the way the meeting was presented. Councilor Keenan encouraged reconsideration of the resolution and that the council request that the mayor get out of the lease.

Councilor Hales reviewed the haste in which this issue was considered and stated the council needs an opportunity to hear the neighborhoods. She supported a request to the mayor to break or get out of the lease.

Councilor Young noted that he has received over 120 calls against the new library and less than 20 calls supporting the new library.

Responding to Councilor Young, City Attorney Dinan stated that the council should either request the mayor or have a resolution directing the mayor to break the lease.

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### **RESOLUTION RECONSIDERED**

Councilor Prettner Solon moved to reconsider Resolution 97-0651, authorizing proper city officials to enter into an agreement with PLB LLC to provide leased premises for a branch library facility at Mount Royal Center at an annual cost of \$102,240 and to construct improvements to the leased premises at a cost of \$195,000, which motion was seconded and discussed.

Councilor Prettner Solon stated she is doing this because while she was sold on the original idea, she has concerns about the process that was followed and that other options should be looked at further.

Councilor Hogg noted it is possible to construct this new library and keep the two old libraries as well, if the city wants to pay for those choices. He noted there are other options for expansion, but raised concern that the council not pull the rug out from under the administration and prevent proceeding with the project. Councilor Hogg encouraged the council and the administration to work together to expand services at the same time. He noted that the resolution does not state that the other libraries will necessarily close. Councilor Hogg stated the issue is if the taxpayers want to pay for additional library services.

Councilor Hales questioned what position reconsideration and tabling of this resolution will put the administration in with the building owner.

Councilor Prettner Solon's motion to reconsider the resolution was unanimously carried.

Councilor Talarico noted that he is concerned that one neighborhood is being favored over another; and if the citizens are willing to pay for neighborhood libraries, the city should support that intent.

Responding to council concerns, Mr. Dinan noted that just the reconsideration and tabling of this resolution will not affect the outcome or the resolution as previously passed. He stated that a new resolution directing the administration to formally break, or negotiate a suspension of, the lease is necessary.

Councilor Keenan said he believes this is a neighborhood issue and does not believe tabling the resolution should be considered.

Councilor Bohlmann expressed concern that this is perceived by some as favoring one neighborhood over another, but that as has been learned in the past, it supports the Lakeside/Lester Park/Woodland neighborhood.

Councilors requested additional information with regard to safety concerns raised and the plans for transportation changes that will result from the Mount Royal library plan.

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

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### RESOLUTIONS TABLED

Councilor Prettner Solon moved to remove Resolution 97-0623, authorizing an agreement with the Damiano Center to operate the Tenant's Union project for \$23,000 payable from the 1997 community development program, from the table, which motion was seconded and unanimously carried.

Resolution 97-0623 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the tenant's union project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0825-09, with the Damiano of Duluth, Inc., Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$23,000, payable out of the 1997 federal program Fund 262 - community development - tenant's union project Account No. 6029.

Resolution 97-0623 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

- - -

Councilor Young moved to remove Resolution 97-0665, awarding contract to Viele Contracting, Inc., for construction of a storm sewer in West 12th Street in accordance with specifications on its low specification bid of \$15,398, from the table, which motion was seconded and unanimously carried.

Resolution 97-0665 was adopted as follows:

BY COUNCILOR YOUNG:

RESOLVED, that Viele Contracting, Inc., be and hereby is awarded a contract for construction of a storm sewer in West 12th Street for the water and gas department in accordance with specifications on its low specification bid of \$15,398, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 97-0665 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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### MOTIONS AND RESOLUTIONS

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Resolution 97-0720, by Councilor Hogg, authorizing execution of an agreement with Minnesota Power and the David M. Griffith and Associates for professional services to study the feasibility of combining meter-related and billing and collection functions of the city water and gas department and Minnesota Power and to study the feasibility of automated meter reading systems for the utilities; for an estimated cost of \$71,500 to be split equally with Minnesota Power, was introduced for discussion.

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

Tony Orman, business agent for AFSCME, Local 66, inquired why this study is necessary. He questioned how a savings will be achieved, noting projected savings outlined in a proposal (Public Document No. 97-0825-03) that was submitted by water and gas employees. Mr. Orman reviewed that another study was done in 1995 which has little use. He stated that input of the affected employees regarding cost savings was not considered nor the \$35,000 cost of the study.

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

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BY COUNCILOR RAPAICH:

RESOLVED, that Resolution 97-0507 to Larson Chevrolet-Olds for furnishing Chevrolet OEM repair parts and services be amended to increase the amount by \$12,000 for a new total of \$22,000; \$17,000 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221 and \$5,000 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 97-0707 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Higgins Industrial Supply and Ziegler, Inc., be and hereby is awarded contracts for furnishing and delivering grader blades, plow blades and wing edges for the fleet division in accordance with specifications on its low specification bids for a total of \$28,089.65, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 97-0708 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 1997, subject to departmental approvals:

Curly's Bar, Inc. (Curly's Bar), 2013 West Superior Street, transferred from Joel Baker (Curly's), same address, with Joel Baker, 1100 shares; Tom Baker, 1100 shares.

Resolution 97-0723 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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stock of the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 1998, subject to departmental approvals:

Rustic Bar Inc. (Rustic Bar), 401 North Central Avenue, with George Gothner, 50 percent stockholder and adding Robert Kervina, 50 percent stockholder.

Resolution 97-0725 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues 68 on sale intoxicating liquor renewal licenses, 65 on sale Sunday intoxicating liquor renewal licenses, 20 on sale dancing renewal licenses and eight additional bar renewal licenses for the period beginning September 1, 1997, and ending August 31, 1998, 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. 97-0825-10.

Resolution 97-0726 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves 12 on sale wine licenses for the period beginning September 1, 1997, and ending August 31, 1998, for issuance by the liquor control commissioner and further subject to departmental approvals and the payment of sales and property taxes as provided for in the Duluth City Code, as listed on Public Document No. 97-0825-11.

Resolution 97-0727 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves 20 off sale intoxicating liquor licenses for the period beginning September 1, 1997, and ending August 31, 1998, for issuance by the liquor control commissioner and further subject to departmental approvals and the payment of sales and property taxes as provided for in the Duluth City Code, as listed on Public Document No. 97-0825-12.

Resolution 97-0728 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves six on sale club liquor licenses and five on sale Sunday licenses for the period beginning September 1, 1997, and ending August 31, 1998, for issuance by the liquor control commissioner and further subject to departmental approvals and the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 97-0825-13.

Resolution 97-0729 was unanimously adopted.

Approved August 25, 1997



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following off sale intoxicating license for the period ending August 31, 1998, subject to departmental approvals and the payment of sales and property taxes and further subject to issuance by the liquor control commissioner:

Bunsie, Inc. (Spirit Bottle Shoppe), 5801 Grand Avenue, with Kevin Kemp, 100 percent stockholder, transferred from Ivan O. Haugen, Inc. (Spirit Bottle Shoppe), same address.

Resolution 97-0730 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

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

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

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

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

<u>Licensee</u>	<u>Gambling site</u>	<u>Date application filed</u>
Duluth Junior Football League	Roby's Grandstand	August 5, 1997
	RT Quinlan's Saloon	August 5, 1997

Resolution 97-0735 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

WHEREAS, the alcoholic beverage board of the city of Duluth has held a public hearing (Public Document No. 97-0825-14) on August 20, 1997, to determine whether or not there is good cause to grant Kenneth and Ramona Knutson an on sale wine license, notwithstanding delinquent real estate taxes and city of Duluth sales taxes; and

WHEREAS, the alcoholic beverage board found that good cause to issue such license does exist.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 8-65 of the Duluth City Code, an on sale wine license shall be granted to Kenneth and Ramona Knutson (Manor on the Creek Inn), 2215 East Second Street, provided that all delinquent real estate and city of Duluth sales taxes be paid by September 20, 1997, or the license will be cancelled and subject to departmental approvals.

Resolution 97-0740 was unanimously adopted.

Approved August 25, 1997

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

WHEREAS, the alcoholic beverage board of the city of Duluth has held a public hearing on August 20, 1997, to determine whether or not there is good cause to grant the Silver Hammer, Inc., an on sale intoxicating liquor, Sunday and dancing license, notwithstanding delinquent real estate taxes on the premises; and

WHEREAS, the alcoholic beverage board found that good cause to issue such license does exist.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 8-65 of the Duluth City Code, an on sale intoxicating liquor, Sunday and dancing license shall be granted to Silver Hammer, Inc. (R.T. Quinlan's Saloon), 220 West Superior Street, provided that all delinquent real estate taxes on the premises be paid by August 31, 1997, or that an agreement to pay them as provided in Section 8-65 be filed by August 31, 1997, and subject to departmental approvals.

Resolution 97-0741 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

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

LAWFUL GAMBLING COMMISSION

Robert Hendrickson for a term expiring April 30, 2000, replacing Milton Pehl.

Resolution 97-0698 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

TREE COMMISSION

Timothy Bates, John Pastor and Nancy Spellerberg for terms expiring August 31, 2000.

Resolution 97-0699 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the project SOAR economic self-sufficiency project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0825-15, with project SOAR of NE Minnesota of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$36,000, payable out of the 1997 federal program Fund 262 - community development - project SOAR Account No. 6019.

Resolution 97-0697 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the CAP weatherization program (regular) project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0825-16, with the Duluth Community Action Program (CAP), Inc., of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$388,000, payable out of the 1997 federal program Fund 262 - community development - CAP weatherization (regular) project - Account No. 6002.

Resolution 97-0701 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the CAP sliding fee weatherization program project pursuant to Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 97-0825-17, with the Duluth Community Action Program (CAP), Inc., Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$75,000, payable out of the 1997 federal program Fund 262 - community development - CAP weatherization sliding fee project Account No. 6003.

Resolution 97-0702 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of a utility easement in vacated Farrell Street south of Lavaque Street, legally described as: The northeasterly 20 feet of the 30 foot wide utility easement adjacent to Lots 3-4, Block 29, Bailey's Rearrangement of Block 29, Hunters Grassy Point; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its August 12, 1997, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the easterly 20 feet of the 30 foot wide utility easement adjacent to Lots 3-4, Block 29, Bailey's Rearrangement of Block 29, Hunters Grassy Point, described above and as more particularly described on Public Document No. 97-0825-18.

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

Resolution 97-0703 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0705, by Councilor Prettner Solon, amending Resolution 97-0073, granting a special use permit to Mark Lambert/Summit Management, for rental townhouse units on property located east of Rice Lake Road - north of the Aspenwood access road, was introduced for discussion.

Councilors Hogg and Young stated they will abstain from discussion and voting on the resolution.

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

Randy Virta commended the council, administration and developer for working together in a process that has involved the neighbors and has resulted in neighborhood support.

Mark Lambert, developer, reviewed the project and stated that he has an agreement with Independent School District No. 709 regarding the overlay of Barnes Road.

Resolution 97-0705 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Mark Lambert/Summit Management has submitted to the city council a request for an amendment to Resolution 97-0073, a special use permit, low density planned development now known as Campus Park, for rental townhouse units on property located at 2102-2374 Rice Lake Road and described as: All that part of the southeast quarter of northwest quarter, Section 16, T50N, R14W of the Fourth Principal Meridian described as follows: Commencing at the north quarter corner of said Section 16, thence north 0°-02'-06" west (assumed bearing), along the east line of said northwest quarter, a distance of 1,314.79 feet to the northeast corner of said southeast quarter of northwest quarter and said northeast corner being the point of beginning of the land to be described; thence south 00°-02'-06" west, along said east line, a distance of 1,314.79 feet to the southeast corner of said northwest quarter; thence south 89°-30'-52" west along the south line of said northwest quarter, a distance of 487.62 feet; thence north 6°-26'-59" west, along the easterly right-of-way line of Rice Lake Road, a distance of 76.33 feet; thence south 83°-33'-01" west, along said right-of-way line, a distance of 48.01 feet; thence north 58°-18'-58" west, along said right-of-way line, a distance of 78.66 feet; thence north 20°-10'-59" west, along said easterly right-of-way line of Rice Lake Road, a distance of 419.90 feet thence north 42°-56'-14" east a distance of 1,110.54 feet to the northeast corner of the southeast quarter of northwest quarter of said Section 16 and said northeast corner also being the point of beginning. Except the south 49.00 feet of the southeast quarter of northwest quarter, Section 16, Township 50 North, Range 14 West, lying east of the easterly right-of-way line of Rice Lake Road. And, except the east 36.00 feet of the north 764.00 feet of the south 813.00 feet of the southeast quarter of northwest quarter, Section 16, Township 50 North, Range 14 West.

The above described property contains 13.37 acres of land, more or less, and is subject to easements of record and located east of Rice Lake Road - north of Aspenwood Access Road; and

Said permit amendment was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval 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; and

WHEREAS, after review of the matter, the council believes that it is appropriate to approve only Phases I through V of such project as outlined and shown on the map on file in the office of the city clerk as Public Document No. 97-0825-19(a) (referred to herein as the revised project).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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NOW, THEREFORE, BE IT RESOLVED, that the special use permit granted by Resolution No. 97-0073 to Mark Lambert/Summit Management is hereby amended to permit the construction and operation of Campus Park, an 88 unit rental townhouse development at 2102-2374 Rice Lake Road, and the conditions contained in Resolution No. 97-0073 are amended to read as follows:

(a) That all rental agreements, management lease agreements, development agreements or any other agreements between permittees hereunder and any third party specifically include the restrictions and limitations herein contained for the exercise and use of the permit granted hereunder;

(b) That all such agreements specifically prohibit the use of Aspenwood private roadways, except Barnes Road, as a means of ingress and egress to the revised project and provide for punitive measures in the event such prohibition is violated and that all residents of the project shall display vehicle permits for identification and enforcement purposes;

(c) The following shall be provided prior to the issuance of any building, grading or other construction permits;

(1) Plans for water and sanitary sewer connections shall be provided to the city and approved by the city's engineering division, water and gas department and fire department, as is appropriate and the improvements shown thereon shall be installed in accordance with such plans;

(2) National pollution discharge system permits (Minnesota pollution control agency) for the entire project be secured and the improvements thereon implemented prior to any work in Phase I;

(3) Street improvement designs and construction, thereof, completed, including a Rice Lake Road access and diverted intersections to the roadway originally constructed to provide access from Rice Lake Road to the old Barnes Ames School (hereinafter Barnes Road), which are approved by the city engineer for compliance with city standards;

(4) That permittee hereunder, erect diverted intersections and international no left turn signs at the access intersections to Barnes Road and no right turn signs on Barnes Road on the easterly approach to the project roadways;

(5) Storm drainage designs and construction plans, approved by the city engineer, for the entire project.

FURTHER, BE IT RESOLVED, that the following specific improvements identified above shall be provided contemporaneously with the construction of the following phases, as identified on the attached site plan and identified as Public Document No. 97-0825-19(b);

(a) Phase I and II: existing four-eight unit (five bedrooms per unit) buildings on east side of the site;

(b) Phase III: Two-eight unit buildings (five bedrooms per unit) on the south center of the site with access to Rice Lake Road;

(c) Phase IV: Two-eight unit buildings (five bedrooms per unit) on the southwest corner of the site with access to Rice Lake Road;

(d) Phase V: One-24 unit building (four bedrooms per unit) on the southwest corner of the site with access to Rice Lake Road and Barnes Avenue, plus development of a recreational area in the northwest corner of the site and the grounds maintenance building.

FURTHER RESOLVED, that prior to the issuance of building permits for any phase, off street parking be provided at one space per bedroom (either off street or in a garage unit).

FURTHER RESOLVED, that prior to the issuance of building permits for Phases IV or V, the board of zoning appeals grant the necessary permits for more than one main building on an R-3 zoned lot.

Resolution 97-0705 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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

Nays: None -- 0

Abstention: Councilors Hogg and Young -- 2

Approved August 25, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 97-0825-20 with U.S. West Communications, Inc., for the provision of 50 voice mail boxes to clients of the city's job training programs at no cost to the city.

Resolution 97-0706 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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Resolution 97-0742, by Councilor Prettnner Solon, withdrawing from joint powers agreement providing for the city's participation in a lobbying effort relating to legislation eliminating the personal property tax on power generating equipment; and Resolution 97-0716, by President Hardesty, authorizing the city of Duluth to enter into a joint powers agreement to join the coalition of utility cities for an amount not to exceed \$1,306, were introduced for discussion.

Administrative Assistant Nollenberger reviewed the background of this issue, noting that 43 of the 50 states do not have a personal property tax on investor owned utilities, and that Minnesota is one of the seven states that do tax utilities. He noted that with deregulation of the utility industry, it is important that utility companies in communities are allowed to remain competitive; but at the same time there is a concern that the city will lose significant revenue received through property taxes from the utilities. Mr. Nollenberger explained that Resolution 97-0716 authorizes the city to band together with other cities to look at this issue and its possible effects. He stated that Resolution 97-0742 gives the city authority to withdraw from this group if it is not in the best interest of the city and is being presented to the council to be tabled until such time that it may be needed.

Councilor Prettnner Solon moved to table Resolution 97-0742, which motion was seconded and unanimously carried.

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Resolution 97-0716 was adopted as follows:

BY COUNCILOR HARDESTY:

WHEREAS, certain investor owned utilities have proposed legislation to the state legislature which would remove personal property tax from the available tax capacities of local governments in Minnesota; and

WHEREAS, there is over a million dollars in electrical generation equipment in the city of Duluth which is now subject to personal property tax; and

WHEREAS, fifteen Minnesota cities which have power generating machinery within their borders subject to personal property taxes have formed the Coalition of Utility Cities to oppose the elimination of personal property tax as a revenue source; and

WHEREAS, the city of Duluth wishes to participate in the lobbying effort with any or all of the 15 named cities interested in preserving the personal property tax on power generating machinery; and

WHEREAS, the Coalition of Utility Cities has hired a lobbyist to help deal with the matter of the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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possible elimination of personal property tax on power generating machinery;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized and directed to execute the joint powers agreement, attached to this resolution and filed as Public Document No. 97-0825-21, to join the Coalition of Utility Cities and participate in their lobbying efforts. Proper city officers are further authorized to pay dues to said Coalition of Utility Cities in an amount of not to exceed \$1,306, payable from Fund 100, Agency 015, Organization 1512, Object 5319, to cover Duluth's prorated share of the cost of lobbying on the personal property tax issue.

Resolution 97-0716 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to accept on behalf of the city of Duluth, pursuant to the laws of Minnesota, 1967, Chapter 374, a national senior citizens education and research center (N.S.C.E.R.S.C.) EXTRAide grant in the amount of \$5,126 for the period August 5, 1997, through June 30, 1998. A copy of this agreement is on file in the city clerk's office as Public Document No. 97-0825-22.

FURTHER RESOLVED, that amounts received pursuant to this grant be deposited in Fund No. 270, Budget Item No. 6341.

Resolution 97-0731 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to modify city Contract No. 17822 with the housing redevelopment authority to offer case management services to participants in its family self-sufficiency program by extending contract date through December 31, 1997, and increasing the contract amount by \$6,250 to a contract total not to exceed \$31,250 by modifying the budget and replacing it with modified budget bearing budget modification date August 4, 1997, No. 2.

FURTHER RESOLVED, that funds received under this agreement shall be deposited in Fund 269, Budget Item 6293.

Resolution 97-0732 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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Resolution 97-0733, by President Hardesty, authorizing execution of a grant agreement in the amount of \$26,900 with the state of Minnesota, department of corrections, relating to the Stop Violence Against Women Act.

Councilors Hales and Hogg requested the administration to update the council on what grants city staff are working on and questioned whether the use of city attorneys to write grants for nonprofits is prudent, especially when there are complaints that the city does not have staff time to enforce ordinances.

Responding to councilors, Mr. Dinan stated that the inclusion of the names of city councilors on the grant application is a formality, where the grant application requires the identification of the governing body and that the councilors are listed as names of directors of boards are listed in the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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private sector. In addition, Mr. Dinan noted, the city attorney's office is responsible for prosecuting matters in court after other departments have completed their investigations and not enforcing the laws.

Resolution 97-0733 was adopted as follows:

BY PRESIDENT HARDESTY:

RESOLVED, that the proper city officers are hereby authorized to execute a grant agreement with the state of Minnesota, department of corrections, under which the city will receive \$26,900 from the STOP violence against women act fund to conduct a study relating to domestic violence, which agreement is on file in the office of the city clerk as Public Document No. 97-0825-23.

Resolution 97-0733 was adopted upon the following vote:

Yeas: Councilors Hogg, Keenan, Prettner Solon, Rapaich, Talarico, Young and President Hardesty -- 7

Nays: Councilors Bohlmann and Hales -- 2

Approved August 25, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR YOUNG:

RESOLVED, that The Lynde Company be and hereby is awarded a contract for furnishing and delivering 1,100 gallons of nontoxic hydrant anti-freeze for the water and gas department in accordance with specifications on its low specification bid of \$9,012.03, terms net 30, FOB shipping point, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 97-0709 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR YOUNG:

RESOLVED, that Automatic Systems Company be and hereby is awarded a contract for furnishing and delivering three 36 inch water meters for the water and gas department in accordance with specifications on its low specification bid of \$40,648.92, terms net 30, FOB shipping point, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 97-0710 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR YOUNG:

RESOLVED, that A.W. Kuettel and Sons, Inc., be and hereby is awarded a contract for installation of three 36 inch water meters at Lakewood pump station for the water and gas department in accordance with specifications on its low specification bid of \$37,242, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 97-0717 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

BE IT RESOLVED, that the proper city officials are authorized to pay to Rod Niemi the sum of \$5,976.71 in full settlement of his claims for property damages arising out of a traffic accident that



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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occurred July 2, 1997, on southbound I-35 near I-535 exit in the city of Duluth; payment to be made from the self insurance fund.

Resolution 97-0700 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for construction of a traffic control signal system at intersections along Woodland Avenue and 21st Avenue East for the engineering division in accordance with specifications on its low specification bid of \$813,907.45, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2156, Object 5530.

Resolution 97-0711 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for construction of a bituminous alley in Second Street Alley between 30th Avenue East and Hawthorne Road for the engineering division in accordance with specifications on its low specification bid of \$29,963.55, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5300, Object 5530.

Resolution 97-0712 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 97-0414 to Hallett Dock Company for furnishing Class 5 limestone be amended to increase the amount by \$9,000 for a new total of \$21,482.55, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5224.

Resolution 97-0713 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 97-0472 to Northland Ready Mix, Inc., for furnishing Class 5 gravel, be amended to increase the amount by \$10,500 for a new total of \$26,611.86, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5224.

Resolution 97-0714 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, it is deemed necessary for the public convenience and safety that a stone retaining wall on Skyline Parkway at Merritt Creek be reconstructed; and

WHEREAS, municipal state aid funds will not be eligible for this improvement if it is constructed as follows:

Skyline Parkway at Merritt Creek, 0.40 miles east of Haines Road

	<u>Proposed</u>	<u>Suburban state aid standards</u>
Design speed	30 km/h	50 km/h
Recovery area	0.90 m with maximum 4:1 inslope	3 m with maximum 4.1 inslope
Lane width	3.4 m	3.6 m

unless a variance is granted from the commissioner of transportation in accordance with Minnesota Rules, Section 8820.9931.

BE IT RESOLVED, that the city of Duluth requests the commissioner of transportation for a variance from Section 8820.9931, c. and b., whereby the suburban state aid standards be reduced for this project from the stated standard of 50 km/h design speed, recovery area of 3 m with maximum 4:1 inslope and lane width of 3.6 m to the proposed speed of 30 km/h, recovery area of 0.90 m with maximum 4:1 inslope and lane width of 3.4 m.

Resolution 97-0734 was unanimously adopted.

Approved August 25, 1997

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinance was read for the first time:

BY COUNCILOR PRETTNER SOLON

97-027 - ORDINANCE AUTHORIZING THE RECONVEYANCE OF CERTAIN PROPERTIES TO THE STATE OF MINNESOTA.

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The following entitled ordinance was read for the second time:

BY COUNCILOR BOHLMANN

97-026 - AN ORDINANCE AUTHORIZING AMENDMENTS TO JOB SPECIFICATIONS TO COMPLY WITH FEDERAL AND STATE ANTI-DISCRIMINATION LAWS, AMENDING SECTION 13-20 OF THE DULUTH CITY CODE.

Councilor Bohlmann stated she understands that approval is required by federal and state statutes, but she will not support it because she believes these changes should be instituted by the council.

Councilor Hogg noted that even though this action is required, he believes it is a serious mistake for the council to give up the oversight and then be made aware by the public of this legislation.

Councilor Prettner Solon suggested that perhaps with the passage of this ordinance, the administration could be requested to present the changes to the council in a more informal manner so as not tie up the council's time with required formal action.

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

Ordinance 97-026 failed upon the following vote (Public Document No. 97-0825-24):

Yeas: Councilors Prettner Solon and Rapaich -- 2

Nays: Councilors Bohlmann, Hales, Hogg, Keenan, Talarico, Young and President Hardesty --

7

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The meeting was adjourned at 10:30 p.m.

JEFFREY J. COX, City Clerk

**OFFICIAL PROCEEDINGS**

Special meeting of the Duluth City Council held on Thursday, September 4, 1997, 5:00 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: Councilor Talarico -- 1

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0904-01 Evensen Dodge, Inc., bond consultants, submitting: (a) Presale analysis; (b) Postsale analysis; (c) Results of bond sales. -- Received

Kathy Kardell, vice president of Evensen Dodge, Inc., reviewed the postsale analysis (Public Document No. 97-0904-01(b)) regarding sale of the five bond issues being presented this evening for approval.

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**MOTIONS AND RESOLUTIONS**

BY COUNCILOR HOGG:

BE IT RESOLVED, by the City Council of the City of Duluth, Minnesota (the "City"), as follows:  
Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Chapter 475 of Minnesota Statutes and other pertinent provisions of said Statutes and the home rule charter of the City, the City is authorized to issue its general obligation bonds to finance the cost of local public improvements, and the City Council may pledge the full faith and credit and taxing powers of the City for the payment of the principal and interest on such indebtedness.

1.02 The City Council has, by resolutions adopted on the following dates, ordered the following local public improvements, as more fully described in reports filed with the City Clerk by the Special Assessment Board pursuant to and in accordance with Chapter IX of the City Charter (the "Regular Public Improvements"); and the Council determined to defray the following portions of the cost of the improvements set forth below to be assessed against benefitted property:

Order in Resolution No.	Date Resolution Passed	Assessable Cost/CDBG Funds	Project Description
96-0118	2/20/96	\$ 34,000	Arrowhead Road & Kenwood/Howard Gnesen
96-0678	7/22/96	397,950	Bristolwood Phase 1
96-0660	7/22/96	27,600	4th Street Alley from 44th Avenue West to 460' West
96-0683	7/25/96	7,600	38th Avenue West from 2nd Street to Grand Avenue
97-0069	4/25/96	22,000	Jefferson Street Sanitary Sewer
97-0286	4/28/97	195,000	City sidewalks 1997

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

Order in Resolution No.	Date Resolution Passed	Assessable Cost/CDBG Funds	Project Description
97-0190	3/17/97	24,000	Sanitary sewer in Grand Avenue from 84th Avenue West to 251' SW
97-0191	3/17/97	27,000	Sanitary sewer in Oneota Alley from 48th Avenue West to 290' West
97-0287	4/14/97	30,500	Second Alley from 30th Avenue East to Hawthorne

1.03 The City Council has, by resolutions adopted on the following dates, ordered street improvements to certain streets, avenues and parkways set forth below (the "1997 Street Improvement Program"), as more fully described in reports filed with the City Clerk by the Special Assessment Board pursuant to and in accordance with Section 61(b) of the City Charter, and the Council has determined to defray one-fourth or less of the cost of the improvements set forth below to be assessed against benefitted property or paid from Community Development Block Grants:

Order in Resolution No.	Date Resolution Passed	Assessable Cost/CDBG Funds	Project Description
96-0421	5/20/96	\$256,308	Upper Fairmont
		105,973	20th Avenue East; 2nd Street to Jefferson
		213,441	Hunters Park
		279,305	Norton Park
		381,357	Woodland
		185,591	Lester Park

1.04 Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$6,850,000 General Obligation Improvement Bonds, Series 1997A, to be dated September 1, 1997, as the date of original issue (the "Bonds") for financing a portion of the costs of the Regular Public Improvements and the 1997 Street Improvement Program.

1.05 The City Council has solicited proposals for the sale of the Bonds in the principal amount of \$6,850,000 and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of FBS Investment Services, Inc., of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$6,767,800, plus accrued interest on the total principal amount from September 1, 1997, to the date of delivery of the Bonds and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The Mayor and the City Clerk are authorized and directed to execute on the part of the City a contract for the sale of the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Bonds in accordance with the Purchaser's proposal. The City Treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated September 1, 1997, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates set forth on Exhibit A attached hereto:

Year	Amount	Interest Rate	Year	Amount	Interest Rate
1999	\$ 50,000	See Exhibit A	2006	\$550,000	See Exhibit A
2000	435,000		2007	570,000	
2001	440,000		2008	600,000	
2002	455,000		2009	525,000	
2003	475,000		2010	550,000	
2004	500,000		2011	575,000	
2005	520,000		2012	605,000	

2.02 The Bonds maturing in the years 1999 through 2006 shall not be subject to redemption and prepayment before maturity, but those maturing in the year 2007 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2006, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to each registered owner of a Bond to be redeemed, at the owner's address shown on the registration books of the City, in the manner provided by Minnesota Statutes, Chapter 475, but the failure to give such mailed notice, or defect in any notice so mailed, shall not affect the validity of the proceedings for the redemption of any Bond not affected by such failure or defect. If applicable, notice shall be given in accordance with the terms of the Representation Letter described in Section 2.06A hereof.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 1998. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such

signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the City Clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 A. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City has previously agreed to the applicable provisions set forth in the Blanket Issuer Letter of Representations which has been executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. Additional matters with respect to, among other things, notices, consents and approvals by bond holders and payments on the Bonds are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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

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

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF ST. LOUIS  
CITY OF DULUTH  
GENERAL OBLIGATION IMPROVEMENT BOND  
SERIES 1997A

R-1 \$ \_\_\_\_\_

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	February 1, ____	September 1, 1997	

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 September 1, 1997, 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, 1998. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar



when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$6,850,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to the authority contained in Chapter 475 of Minnesota Statutes and all other laws and provisions thereunto enabling, and pursuant to the City Charter and a resolution adopted by the governing body of the City on September 4, 1997 (the "Resolution"), for the purpose of financing a portion of the cost of local public improvements. The principal hereof and interest hereon are payable in part from special assessments levied or to be levied against property specially benefitted by local improvements and in part from ad valorem taxes.

The Bonds of this series maturing in the years 1999 through 2006 are not subject to redemption before maturity, but those maturing in the year 2007 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2006, and on any date thereafter upon 30 days' notice, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed. No defect or failure in such mailed notice shall affect the validity of the proceedings for redemption of any Bond not affected by such failure or defect. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does

not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

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

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

Date of Authentication: \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

**BOND REGISTRAR'S AUTHENTICATION CERTIFICATE**

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

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION

Bond Registrar

By \_\_\_\_\_

Authorized Representative

**BOND COUNSEL OPINION**

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

\_\_\_\_\_  
City Clerk

**REGISTRATION CERTIFICATE**

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
9/___/97	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

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

\_\_\_\_\_  
\_\_\_\_\_

(Name and Address of Assignee)

\_\_\_\_\_ Social Security or Other  
\_\_\_\_\_ Identifying Number of Assignee

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

Dated: \_\_\_\_\_.

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

Signature Guaranteed:

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

Section 3. Revenues, Accounts and Covenants.

3.01 The City Council covenants and agrees with the holders of the Bonds and with its taxpayers that (i) it will assess against benefitted property the cost of the improvements to the City for the Regular Public Improvements in an amount which is not less than 20% of the costs of such projects financed by the proceeds of the Bonds allocable to the Regular Public Improvements and

(ii) it will assess against benefitted property the cost of the improvements to the City for the 1997 Street Improvement Program in an amount which, together with the proceeds of federal grants to the City for such improvement projects, is not less than 20% of the costs of such projects financed by the proceeds of the Bonds allocable to the 1997 Street Improvement Program. The City Council further covenants and agrees that, with due diligence, it will complete the special assessment process, including any and all supplemental assessments or reassessments that may be required to lawfully assess the benefitted property.

3.02 Upon payment of the purchase price of the Bonds, the City shall credit the proceeds from the sale of the Bonds to two separate construction accounts as follows:

A. \$6,020,000 less discount allocated thereto, into the 1997 Street Improvement Account (the "1997 Street Account") within the Street Improvement Fund in the Capital Projects Fund. The portion of the principal maturities of the Bonds, debt service and tax levy allocation to the 1997 Street Improvement Program are set forth on Exhibit B.

B. \$830,000, less discount allocated thereto, into a separate construction account (the "1997 Projects Account") within the Special Assessment Capital Projects Fund for the Regular Public Improvements. The portion of the principal maturities of the Bonds, debt service and tax levy allocation to the Regular Public Improvements are set forth on Exhibit C.

The proper City officers are authorized and directed to pay out of such construction accounts from time to time as required, upon presentation of properly verified vouchers or statements of account, such amount or amounts as may be required to pay the cost of the improvements for each improvement program. The costs of issuance of the Bonds shall be paid from the 1997 Street Account and the 1997 Projects Account.

3.03 A separate account within the Special Assessment Debt Service Fund maintained by the City is hereby created and is designated the "1997 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 1997 Improvement Bond Account shall be paid from the proceeds of the Bonds unused discount, if any, capitalized interest in the amount of \$374,171, plus the amount of accrued interest on the Bonds, all special assessments levied for the projects listed in Sections 1.02 and 1.03 hereof and the ad valorem taxes levied pursuant to Section 3.04 hereof.

3.04 A. The full faith and credit and taxing power of the City are hereby irrevocably pledged for the prompt and full payment of the principal of and interest on the Bonds, as such principal and interest respectively become due. To provide monies for the payment of the principal and interest on the Bonds, there is hereby levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls and collected with and part of the other general property taxes of the City for the years and in the amounts as set forth on Exhibit A attached hereto. Said levies are such that if collected in full they will produce at least 5% in excess of the amount needed to meet when due the principal and interest on the Bonds, except for capitalized interest.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that in each year while any Bonds issued hereunder remain outstanding, the City Council may reduce or cancel the above levies (i) to the extent of funds expected to be received from special assessments from the projects described in Sections 1.02 and 1.03 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 1997 Improvement Bond Account within the Special Assessment Debt Service Fund. If the balances in the 1997 Improvement Bond Account are ever insufficient to pay all principal and interest then due on the Bonds, the Treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the 1997 Improvement Bond Account when the balances therein are sufficient.

3.05 Proceeds of the Bonds on deposit in the 1997 Street Account, 1997 Projects Account and 1997 Improvement Bond Account may, in the discretion of the City Treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 4. Tax Covenants; Miscellaneous.

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

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any proceeds of the Bonds and any sums from time to time held in such debt service account (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in such debt service account shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-

year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Section 5. Continuing Disclosure.

The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the Mayor and the Clerk are hereby authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the City Clerk.

Section 6. Certificate of Proceedings.

6.01 The City Clerk is directed to file with the County Auditor a certified copy of this Resolution and such other information as the County Auditor may require, and to obtain from the County Auditor a certificate stating that the Bonds herein authorized have been duly entered on his register.

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

6.03 The officers of the City are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the sale of the Bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

Resolution 97-0760 was unanimously adopted.

Approved September 4, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

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

Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475 and all other enabling statutes, the City is authorized to issue its general obligation bonds to provide the funds necessary to match state, private and federal grants for projects within the City's boundaries, which bonds are to be payable from annual ad valorem taxes or other revenues of the City.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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1.02 The City Council has, by Ordinance No. 9341 adopted on July 28, 1997, authorized the issuance and sale of general obligation bonds of the City to finance costs of the Duluth Transit Authority to purchase ten new buses (the "DTA Project"), in an amount not to exceed \$525,000.

1.03 The City Council has, by Ordinance No. 9342 adopted on July 28, 1997, authorized the issuance, sale and delivery of general obligation recreation facilities bonds of the City in the amount of \$100,000 for completion of city-wide soccer field additions and alterations(the "Soccer Fields Project").

1.04 The City Council has ordered the issuance, sale and delivery of General Obligation Bonds of the City in the amount of \$625,000, for the purpose of (i) financing the City's portion of costs for the DTA Project and (ii) financing the remaining project costs for the Soccer Fields Project and for payment of part of the interest costs of such bond issue.

1.05 The City Council has solicited proposals for the sale of the Bonds in the principal amount of \$625,000 and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of Dain Bosworth, Incorporated, of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$618,125, plus accrued interest on the total principal amount from September 1, 1997, to the date of delivery of the Bonds and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The Mayor and the City Clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's proposal. The City Treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated September 1, 1997, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates set forth on Exhibit A attached hereto:

Year	Amount	Interest Rate	Year	Amount	Interest Rate
1999	\$60,000	See Exhibit A	2004	\$55,000	See Exhibit A
2000	70,000		2005	55,000	
2001	75,000		2006	60,000	
2002	75,000		2007	60,000	
2003	50,000		2008	65,000	

2.02 The Bonds are not subject to 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, 1998. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of

the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the City Clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 A. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City has previously agreed to the applicable provisions set forth in the Blanket Issuer Letter of Representations which has been executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. Additional matters with respect to, among other things, notices, consents and approvals by bond holders and payments on the Bonds are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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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 BOND, SERIES 1997B

R-1 \$\_\_\_\_\_

<u>Interest</u> <u>Rate</u>	<u>Maturity Date</u>	<u>Date of</u> <u>Original Issue</u>	<u>CUSIP</u>
	February 1, ____	September 1, 1997	

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 September 1, 1997, 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, 1998. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the

close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$625,000, 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 September 4, 1997 (the "Resolution"), and is issued for the purpose of financing a portion of the costs of the Duluth Transit Authority purchase of new buses and financing improvements to the city-wide soccer fields and for payment of part of the interest cost of said bond issue. The principal hereof and interest hereon are payable primarily from annual ad valorem taxes as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. The Bonds are not subject to redemption and prepayment before maturity.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

Date of Authentication: \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

**BOND REGISTRAR'S AUTHENTICATION CERTIFICATE**

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

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION  
Bond Registrar

By \_\_\_\_\_  
Authorized Representative

**BOND COUNSEL OPINION**

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

\_\_\_\_\_  
City Clerk

**REGISTRATION CERTIFICATE**

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
9/___/97	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

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

\_\_\_\_\_  
\_\_\_\_\_

(Name and Address of Assignee)

\_\_\_\_\_ Social Security or Other  
\_\_\_\_\_ Identifying Number of Assignee

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

Dated: \_\_\_\_\_.

\_\_\_\_\_

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

Signature Guaranteed:

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

Section 3. Covenants, Accounts and Representations.

3.01 \$525,000 of the Bonds is allocated for use for the DTA Project. The portion of the principal maturities of the Bonds, debt service and tax levy allocable to the DTA Project is set forth on Exhibit B hereto. The City has created a separate acquisition account within the Duluth Transit Support Capital Improvement Fund to which there shall be credited the proceeds of the Bonds allocable to the DTA Project, less discount allocated thereto, together with any additional funds, including grant funds, which may be available and are appropriated for the DTA 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 DTA Project and to pay the costs of issuance for the allocable portion of the Bonds issued for the DTA Project.

3.02 \$100,000 of the Bonds is allocated for use for the Soccer Fields Project. The portion of the principal maturities of the Bonds, debt service and tax levy allocable to the Soccer Fields Project is set forth on Exhibit C hereto. The City has created a separate construction account, the Soccer Fields Account, within Capital Improvement Fund No. 450 to which there shall be credited the proceeds of the Bonds allocable to the Soccer Fields Project, less discount allocated thereto, together with any additional funds, including the grant funds, which may be available and are appropriated for the Soccer Fields Project. This account shall be used only to pay, or reimburse, expenses duly approved and allowed which, under generally accepted accounting principles, constitute capital expenditures for the completion of the Soccer Fields Project and to pay the costs of issuance for the allocable portion of the Bonds issued for the Soccer Fields Project.

3.03 A. There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than 5% in excess of the amounts of principal and interest on the Bonds as such principal and interest respectively become due as set forth on Exhibit A attached hereto.

B. A separate debt service account is hereby created and designated as the "G.O. Bonds, Series 1997B Debt Service Account" (the "Debt Service Fund") within the City's Debt Service Fund. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the Treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. Into the Debt Service Fund shall be credited unused discount, if any, plus the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds.

3.04 If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Bonds, the Treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient. All proceeds of said taxes will be appropriated and paid when collected into such account. Said taxes shall be irrevocable until the Bonds and interest are fully paid, except that if the City in any year shall make an irrevocable appropriation to said accounts of monies actually on hand, the City Clerk shall certify to the County Auditor of St. Louis County the fact and the amount thereof, and the County Auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

3.05 The full faith and credit and taxing power of the City are irrevocably pledged for the prompt and full payment of the Bonds and the interest thereon, in accordance with the terms set forth in this Resolution.

3.06 Proceeds of the Bonds on deposit in such accounts in the Duluth Transit Support Capital Improvement Fund, in the Capital Improvement Fund 450 and in the Debt Service Fund may, in the discretion of the City Treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

#### Section 4. Tax Covenants.

4.01 The city covenants and agrees with the holders of the Bonds that the City will (I) take all action on its part necessary to assure that the interest on the Bonds will be excluded from gross

income for federal income taxes including, without limitations, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which could cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any proceeds of the Bonds and any sums from time to time held in the debt service fund for the Bonds (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in the debt service fund for the Bonds shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

#### Section 5. Continuing Disclosure.

The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the Mayor and the Clerk are hereby authorized and directed to execute a Continuing

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the City Clerk.

Resolution 97-0761 was unanimously adopted.  
Approved September 4, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

Section 1. Bond Purpose and Authorization.

1.01 The City has previously issued its \$4,250,000 General Obligation Tax Increment Bonds, Series 1991A, dated March 1, 1991 (referred to as the "Prior Bonds"). The Prior Bonds were authorized and issued pursuant to Minnesota Statutes, Section 469.178 and Chapter 475 and the City Charter.

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 and Minnesota Statutes, Section 469.178, the City is authorized to issue and sell its general obligation bonds to refund obligations and the interest thereon more than six months before the due date of the obligations, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 It is necessary and desirable that in order to reduce debt service costs the City issue \$3,040,000 General Obligation Tax Increment Refunding Bonds, Series 1997C (the "Bonds"), to refund the Prior Bonds, of which \$2,905,000 in principal amount is outstanding (the "Refunded Bonds"). The Refunded Bonds maturing on February 1, 1998 and 1999 will be paid on their stated maturity dates and the Refunded Bonds maturing on and after February 1, 2000, will be redeemed and prepaid on February 1, 1999 (the "Redemption Date").

1.04 The City Council has solicited proposals for the sale of the Bonds in the principal amount of \$3,040,000 and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of FBS Investment Services, Inc., of Minneapolis, Minnesota, (the "Purchaser"), to purchase the Bonds at a cash price of \$3,009,600, plus accrued interest on the total principal amount from September 1, 1997, to the date of delivery of the Bonds and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The Mayor and the City Clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's proposal. The City Treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated September 1, 1997, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates set forth on Exhibit A:

Year	Amount	Interest Rate
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

1998	\$280,000	See Exhibit A
1999	275,000	
2000	280,000	
2001	280,000	
2002	275,000	
2003	275,000	
2004	275,000	
2005	275,000	
2006	275,000	
2007	275,000	
2008	275,000	

2.02 The Bonds maturing in the years 1998 through 2006 shall not be subject to redemption and prepayment before maturity, but those maturing in the year 2007 and subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2006, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to each registered owner of a Bond to be redeemed, at the owner's address shown on the registration books of the City, but the failure to give such mailed notice, or defect in any notice so mailed, shall not affect the validity of the proceedings for the redemption of any Bond not affected by such failure or defect. If applicable, notice shall be given in accordance with the terms of the Representation Letter described in Section 2.06A hereof.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing February 1, 1998. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the City Clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.



2.05 The City hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 A. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City has previously agreed to the applicable provisions set forth in the Blanket Issuer Letter of Representations which has been executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. Additional matters with respect to, among other things, notices, consents and approvals by Bond holders and payments on the Bonds are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

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

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

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA  
 STATE OF MINNESOTA  
 COUNTY OF ST. LOUIS  
 CITY OF DULUTH  
 GENERAL OBLIGATION TAX INCREMENT  
 REFUNDING BOND, SERIES 1997C

R-1 \$ \_\_\_\_\_

<u>Interest</u>			
<u>Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	February 1, ____	September 1, 1997	

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 September 1, 1997, 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, 1998. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$3,040,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475 and Sections 469.174 to 469.179, and all other laws thereunto enabling, and pursuant to authorizing resolutions adopted by the governing body of the City on September 4, 1997 (the "Resolution"), and is issued for the purpose of providing money to refund the outstanding principal amount of the City's \$4,250,000 General

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Obligation Tax Increment Bonds, Series 1991A, dated March 1, 1991. The principal hereof and interest hereon are payable primarily from tax increments resulting from increases in assessed valuation of real property in Tax Increment Financing District No. 4, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred.

The Bonds of this series maturing in the years 1998 through 2006 are not subject to redemption before maturity, but those maturing in the year 2007 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2006, 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.

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

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Mayor

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION  
Bond Registrar

By \_\_\_\_\_  
Authorized Representative

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

\_\_\_\_\_  
City Clerk

REGISTRATION CERTIFICATE

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

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
9/___/97	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Name and Address of Assignee)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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\_\_\_\_\_ Social Security or Other  
\_\_\_\_\_ Identifying Number of Assignee

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

Dated: \_\_\_\_\_.

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

Signature Guaranteed:

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

Section 3. Covenants, Accounts and Representations.

3.01 A. Debt Service Fund. For the convenience and proper administration of the monies to be borrowed and repaid on the Bonds and to provide adequate and specific security for the Purchaser and holders from time to time of the Bonds there is hereby created a special fund to be designated the 1997 General Obligation Tax Increment Refunding Bonds Debt Service Account ("Debt Service Fund") to be administered and maintained by the City Treasurer as a bookkeeping account in the City's debt service fund separate and apart from all other funds maintained in the official financial records of the City. The Debt Service Fund shall be maintained in the manner herein specified until all of the Bonds and interest thereon have been fully paid. There shall be maintained in the Debt Service Fund two separate accounts, to be designated the Escrow Account and the Debt Service Account.

B. Debt Service Account. To the Debt Service Account there is hereby pledged and irrevocably appropriated and there shall be credited: (i) any balance remitted to the City upon termination of the Escrow Agreement; (ii) any balance remaining in the debt service fund created by the Resolution of the City Council authorizing the issuance and sale of the Prior Bonds (the "Prior Resolution"); (iii) any collections of Tax Increments from Tax Increment Financing District No. 4 pledged pursuant to the Tax Increment Pledge Agreement between the City and the Duluth Economic Development Authority (the "Pledge Agreement"); (iv) all investment earnings on funds in the Debt Service Account; (v) accrued interest, if any, received upon delivery of the Bonds to the extent not required to fund the Escrow Account; and (vi) any and all other monies which are properly available and are appropriated by the City to the Debt Service Account. The amount of any surplus remaining in the Debt Service Account when the Bonds and interest thereon are paid

shall be used as provided in Section 475.61, Subdivision 4 of the Act. The City officers are hereby authorized to execute the Pledge Agreement.

C. Escrow Account. (i) The proceeds of the Bonds received from the Purchaser (not including amounts appropriated to the Debt Service Account or used for payment of costs of issuance of the Bonds), plus accrued interest on the Bonds advanced by the Purchaser on the date of closing and delivery of the Bonds (the "Proceeds") and funds of the City in an amount sufficient to meet the requirements of the Escrow Account (the "Funds"), together with investment earnings on such monies, are irrevocably appropriated to the Escrow Account in the Debt Service Fund for the payment of principal and interest on the Refunded Bonds to and including the Redemption Date and redemption of the portion of the Refunded Bonds called for prepayment on the Redemption Date.

(ii) The Escrow Account shall be maintained with the Bond Registrar, as escrow agent, 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, and said financial institution is hereby designated escrow agent ("the Escrow Agent") for the Escrow Account. The Escrow Account shall be invested in securities maturing or callable at the option of the holder on such dates and bearing interest at such rates as shall be required to provide sufficient funds together with any cash or other funds retained in the Escrow Account to pay when due the interest to accrue on the Refunded Bonds to and including the Redemption Date and to pay when due, and to redeem on the Redemption Date the principal amount of each of the Refunded Bonds. From the Escrow Account there shall be paid: (1) all interest paid on or to be paid on or to accrue on the Refunded Bonds to and including the Redemption Date and (2) the principal of the Refunded Bonds due on February 1, 1998 and 1999 and, by reason of redemption, the principal amount of the Refunded Bonds called for prepayment on the Redemption Date. The Escrow Account shall be irrevocably appropriated to the payment of the principal and interest on the Refunded Bonds. The monies in the Escrow Account shall be used solely for the purposes herein set forth and for no other purpose, except that any surplus in the Escrow Account may be remitted to the City all in accordance with the Escrow Agreement hereafter defined by and between the City and the Escrow Agent. Any monies remitted to the City upon termination of the Escrow Agreement shall be deposited in the Debt Service Fund.

D. The General Obligation Tax Increment Bonds, Series 1991A Debt Service Fund established by the Prior Resolution is hereby terminated and any moneys remaining therein shall be transferred to the debt service fund for the Bonds established in this Resolution.

3.02 A. It is determined that the estimated collections of Tax Increment pursuant to the Pledge Agreement 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 payments on the Bonds and that no tax levy is needed at this time.

B. If the balances in the Debt Service Fund are ever insufficient to pay all amounts due to be paid therefrom with respect to the Refunded Bonds and the Bonds, the City shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Account when the balance therein is sufficient. It is recognized, however, that the City's liability on the Bonds is not limited to the monies so pledged, and the City Council covenants and agrees that 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, and the City Council will levy upon all taxable property within the City and cause to be extended, assessed, 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.

3.03 Amounts on deposit in the Debt Service Account may, in the discretion of the City Treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of the principal and interest on the Bonds when due.

Section 4. Refunding; Findings; Redemption of Refunded Bonds.

4.01 A. It is hereby found and determined, based upon information presently available from the City's financial advisers, that as of the nominal date of the Bonds, the issuance of the Bonds will result in a reduction of debt service cost to the City on the Refunded Bonds. The approximate dollar value of such debt service cost savings (the "Reduction") is \$176,085, and the approximate present value of the Reduction is \$139,840, which represents a debt service cost savings of approximately 4.44%.

B. It is hereby found and determined that the Proceeds and Funds available and appropriated to the Escrow Account will be sufficient, together with the permitted earnings on the investment of the Escrow Account, to pay all of the principal of the Refunded Bonds due on February 1, 1998 and 1999 and, by reason of redemption, the principal amount of the Refunded Bonds called for prepayment on the Redemption Date and the interest coming due on the Refunded Bonds to and including the Redemption Date.

4.02 Securities purchased from the monies in the Escrow Account shall be limited to securities specified in Section 475.67, Subdivision 8 of the Act. Securities purchased for the Escrow Account shall be purchased simultaneously with the delivery of and payment for the Bonds. The Mayor and the City Clerk are authorized and directed to purchase such securities.

4.03 The Refunded Bonds shall be paid or redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of Notice of Call for Redemption attached hereto as Exhibit B, which terms and conditions are hereby approved and incorporated herein by reference. The City Clerk or the designee thereof is hereby authorized and directed to forthwith publish the Notice of Call for Redemption in a publication qualified under Section 475.54 of the Act and to send written notice of call to the bond registrar and paying agent, as the case may be, for the Refunded Bonds.

4.04 On or prior to the delivery of the Bonds, the Mayor and the City Clerk are hereby authorized and directed to execute on behalf of the City an escrow agreement (the "Escrow Agreement") with the Escrow Agent. The execution and delivery of the Escrow 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 and the City 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.

4.05 When all Bonds and all interest thereon have been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this Resolution to the holders of the Bonds and the Refunded Bonds shall cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal of and interest on the Bonds shall remain in full force and effect. The City may discharge all Bonds which are due on any date by depositing with the Bond Registrar on or before that date a sum sufficient for the payment thereof in full; if any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Bond

Registrar designated in Section 2.05 hereof a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit. The City may also at any time discharge and cause defeasance of the Bonds in their entirety by complying with the provisions of Section 475.67 of Minnesota Statutes, 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 5. Continuing Disclosure.

The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the Mayor and the Clerk are hereby authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the City Clerk.

Section 6. Certificate of Proceedings.

6.01 The City Clerk is directed to file with the County Auditor a certified copy of this Resolution and such other information as the County Auditor may require, and to obtain from the County Auditor a certificate stating that the Bonds herein authorized have been duly entered on his register.

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

6.03 The officers of the City are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the sale of the Bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

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 For purposes of qualifying for the six-month spending exemption to the federal arbitrage rebate requirement set forth in Section 148(f)(4)(B) of the Internal Revenue Code of 1986, as amended (the "Code"), the City hereby finds, determines and declares that the proceeds of the



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Refunded Bonds have been totally expended for the governmental purpose for which issued; within six months of the date of issue of the Bonds, the gross proceeds of the Bonds will have been totally expended for the purpose of funding the Escrow Account and paying costs of issuance of the Bonds. Therefore, no rebate of arbitrage profit is required under the Code.

Resolution 97-0771 was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Absent: Councilor Talarico -- 1

Approved September 4, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

Section 1. Bond Purpose and Authorization.

1.01 The City has previously issued its \$3,770,000 General Obligation Zoo Bonds of 1992, dated March 1, 1992 (referred to as the "Prior Bonds"). The Prior Bonds were authorized and issued pursuant to Minnesota Laws 1974, Chapter 130, and Minnesota Statutes, Chapter 475, and the City Charter.

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 more than six months before the due date of the obligations, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 It is necessary and desirable that in order to reduce debt service costs the City issue \$3,285,000 General Obligation Zoo Refunding Bonds, Series 1997E (the "Bonds"), to refund the Prior Bonds, of which \$3,080,000 in principal amount is outstanding (the "Refunded Bonds"). The Refunded Bonds maturing on August 1, 1998, 1999 and 2000 will be paid on their stated maturity dates and the Refunded Bonds maturing on and after August 1, 2001, will be redeemed and prepaid on August 1, 2000 (the "Redemption Date").

1.04 The City Council has solicited proposals for the sale of the Bonds in the principal amount of \$3,285,000 and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of FBS Investment Services, Inc., of Minneapolis, (the "Purchaser"), to purchase the Bonds at a cash price of \$3,245,580, plus accrued interest on the total principal amount from September 1, 1997, to the date of delivery of the Bonds and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The Mayor and the City Clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's proposal. The City Treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated September 1, 1997, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates set forth on Exhibit A:

Year	Amount	Interest Rate
1998	\$ 35,000	See Exhibit A
1999	215,000	
2000	215,000	
2001	220,000	
2002	225,000	
2003	225,000	
2004	230,000	
2005	230,000	
2006	230,000	
2007	235,000	
2008	235,000	
2009	240,000	
2010	250,000	
2011	250,000	
2012	250,000	

2.02 The Bonds maturing in the years 1998 through 2006 shall not be subject to redemption and prepayment before maturity, but those maturing in the year 2007 and subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2006, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to each registered owner of a Bond to be redeemed, at the owner's address shown on the registration books of the City, but the failure to give such mailed notice, or defect in any notice so mailed, shall not affect the validity of the proceedings for the redemption of any Bond not affected by such failure or defect. If applicable, notice shall be given in accordance with the terms of the Representation Letter described in Section 2.06A hereof.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing February 1, 1998. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such

signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the City Clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 A. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City has previously agreed to the applicable provisions set forth in the Blanket Issuer Letter of Representations which has been executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. Additional matters with respect to, among other things, notices, consents and approvals by Bond holders and payments on the Bonds are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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

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

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF ST. LOUIS  
CITY OF DULUTH  
GENERAL OBLIGATION ZOO  
REFUNDING BOND, SERIES 1997E

R-1		\$ _____
<u>Interest</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>
<u>Rate</u>	<u>Rate</u>	<u>CUSIP</u>
%	February 1, ____	September 1, 1997

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 September 1, 1997, 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, 1998. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar

when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$3,285,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475 and all other laws thereunto enabling, and pursuant to authorizing resolutions adopted by the governing body of the City on September 4, 1997 (the "Resolution"), and is issued for the purpose of providing money to refund the outstanding principal amount of the \$3,770,000 General Obligation Zoo Bonds of 1992, dated March 1, 1992.

The Bonds of this series maturing in the years 1998 through 2006 are not subject to redemption before maturity, but those maturing in the year 2007 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2006, 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.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

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

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

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

Date of Authentication: \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

**BOND REGISTRAR'S AUTHENTICATION CERTIFICATE**

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

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION  
Bond Registrar

By \_\_\_\_\_  
Authorized Representative

**BOND COUNSEL OPINION**

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

\_\_\_\_\_  
City Clerk

**REGISTRATION CERTIFICATE**

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

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
9/___/97	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

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

\_\_\_\_\_  
\_\_\_\_\_

(Name and Address of Assignee)

\_\_\_\_\_ Social Security or Other  
\_\_\_\_\_ Identifying Number of Assignee

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

Dated: \_\_\_\_\_.

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

Signature Guaranteed:

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

Section 3. Covenants, Accounts and Representations.

3.01 A. Debt Service Fund. For the convenience and proper administration of the monies to be borrowed and repaid on the Bonds and to provide adequate and specific security for the Purchaser and holders from time to time of the Bonds there is hereby created a separate debt service account to be designated the 1997 General Obligation Zoo Refunding Bonds Debt Service Account ("Debt Service Fund") within the City's debt service fund, to be administered and maintained by the City Treasurer as a bookkeeping account separate and apart from all other funds maintained in the official financial records of the City. The Debt Service Fund shall be maintained in the manner herein specified until all of the Bonds and interest thereon have been fully paid. There shall be maintained in the Debt Service Fund two separate sub-accounts, to be designated the Escrow Account and the Debt Service Account.

B. Debt Service Account. To the Debt Service Account there is hereby pledged and irrevocably appropriated and there shall be credited: (i) any balance remitted to the City upon termination of the Escrow Agreement; (ii) any balance remaining in the debt service fund created by the Resolution of the City Council authorizing the issuance and sale of the Prior Bonds (the "Prior Resolution"); (iii) any collections of all ad valorem taxes hereafter levied for the payment of the

Bonds and interest thereon; (iv) all ad valorem taxes collected after the date of this resolution, if any, pursuant to levies made in the Prior Resolution; (vi) accrued interest, if any, received upon delivery of the Bonds to the extent not required to fund the Escrow Account; and (vii) any and all other monies which are properly available and are appropriated by the City to the Debt Service Account. The amount of any surplus remaining in the Debt Service Account when the Bonds and interest thereon are paid shall be used as provided in Section 475.61, Subdivision 4 of the Act.

C. Escrow Account. (i) The proceeds of the Bonds received from the Purchaser (not including amounts appropriated to the Debt Service Account or used for payment of costs of issuance of the Bonds), plus accrued interest on the Bonds advanced by the Purchaser on the date of closing and delivery of the Bonds (the "Proceeds") and funds of the City in an amount sufficient to meet the requirements of the Escrow Account (the "Funds"), together with investment earnings on such monies, are irrevocably appropriated to the Escrow Account in the Debt Service Fund for the payment of principal and interest on the Refunded Bonds to and including the Redemption Date and redemption of the portion of the Refunded Bonds called for prepayment on the Redemption Date.

(ii) The Escrow Account shall be maintained with the Bond Registrar, as escrow agent, 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, and said financial institution is hereby designated escrow agent ("the Escrow Agent") for the Escrow Account. The Escrow Account shall be invested in securities maturing or callable at the option of the holder on such dates and bearing interest at such rates as shall be required to provide sufficient funds together with any cash or other funds retained in the Escrow Account to pay when due the interest to accrue on the Refunded Bonds to and including the Redemption Date and to pay when due, and to redeem on the Redemption Date the principal amount of each of the Refunded Bonds. From the Escrow Account there shall be paid: (1) all interest paid on or to be paid on or to accrue on the Refunded Bonds to and including the Redemption Date and (2) the principal of the Refunded Bonds due on August 1, 1998, 1999 and 2000 and, by reason of redemption, the principal amount of the Refunded Bonds called for prepayment on the Redemption Date. The Escrow Account shall be irrevocably appropriated to the payment of the principal and interest on the Refunded Bonds. The monies in the Escrow Account shall be used solely for the purposes herein set forth and for no other purpose, except that any surplus in the Escrow Account may be remitted to the City all in accordance with the Escrow Agreement hereafter defined by and between the City and the Escrow Agent. Any monies remitted to the City upon termination of the Escrow Agreement shall be deposited in the Debt Service Fund.

D. The General Obligation Zoo Bonds of 1992 debt service accounts established by the Prior Resolution are hereby terminated and any moneys remaining therein shall be transferred to the Debt Service Fund for the Bonds established in this Resolution.

3.02 There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than 5% in excess of the amounts of principal and interest on the Bonds as such principal and interest respectively become due as set forth on Exhibit A attached hereto.

3.03 If the balances in the Debt Service Fund are ever insufficient to pay all amounts due to be paid therefrom with respect to the Bonds, the City shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Account when the balance therein is sufficient. Said taxes shall be irrevocable until the Bonds and interest are fully paid, except that if the City in any year



shall make an irrevocable appropriation to said accounts of monies actually on hand, the City Clerk shall certify to the County Auditor of St. Louis County the fact and the amount thereof, and the County Auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

3.04 The full faith and credit and taxing power of the City are 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, in accordance with the terms of this Resolution.

3.05 Amounts on deposit in the Debt Service Account may, in the discretion of the City Treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of the principal and interest on the Bonds when due.

Section 4. Refunding; Findings; Redemption of Refunded Bonds.

4.01 A. It is hereby found and determined, based upon information presently available from the City's financial advisers, that as of the nominal date of the Bonds, the issuance of the Bonds will result in a reduction of debt service cost to the City on the Refunded Bonds. The approximate dollar value of such debt service cost savings (the "Reduction") is \$93,975, and the approximate present value of the Reduction is \$122,073, which represents a debt service cost savings of approximately 3.58%.

B. It is hereby found and determined that the Proceeds and Funds available and appropriated to the Escrow Account will be sufficient, together with the permitted earnings on the investment of the Escrow Account, to pay all of the principal of the Refunded Bonds due on August 1, 1998, 1999 and 2000 and, by reason of redemption, the principal amount of the Refunded Bonds called for prepayment on the Redemption Date and the interest coming due on the Refunded Bonds to and including the Redemption Date.

4.02 Securities purchased from the monies in the Escrow Account shall be limited to securities specified in Section 475.67, Subdivision 8 of the Act. Securities purchased for the Escrow Account shall be purchased simultaneously with the delivery of and payment for the Bonds. The Mayor and the City Clerk are authorized and directed to purchase such securities.

4.03 The Refunded Bonds shall be paid or redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of Notice of Call for Redemption attached hereto as Exhibit B, which terms and conditions are hereby approved and incorporated herein by reference. The City Clerk or the designee thereof is hereby authorized and directed to forthwith publish the Notice of Call for Redemption in a publication qualified under Section 475.54 of the Act and to send written notice of call to the bond registrar and paying agent, as the case may be, for the Refunded Bonds.

4.04 On or prior to the delivery of the Bonds, the Mayor and the City Clerk are hereby authorized and directed to execute on behalf of the City an escrow agreement (the "Escrow Agreement") with the Escrow Agent. The execution and delivery of the Escrow 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 and the City 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.

4.05 When all Bonds and all interest thereon have been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this Resolution to the holders of the

Bonds and the Refunded Bonds shall cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal of and interest on the Bonds shall remain in full force and effect. The City may discharge all Bonds which are due on any date by depositing with the Bond Registrar on or before that date a sum sufficient for the payment thereof in full; if any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Bond Registrar designated in Section 2.05 hereof a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit. The City may also at any time discharge and cause defeasance of the Bonds in their entirety by complying with the provisions of Section 475.67 of Minnesota Statutes, 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 5. Continuing Disclosure.

The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the Mayor and the Clerk are hereby authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the City Clerk.

Section 6. Certificate of Proceedings.

6.01 The City Clerk is directed to file with the County Auditor a certified copy of this Resolution and such other information as the County Auditor may require, and to obtain from the County Auditor a certificate stating that the Bonds herein authorized have been duly entered on his register.

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

6.03 The officers of the City are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the sale of the Bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

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 For purposes of qualifying for the six-month spending exemption to the federal arbitrage rebate requirement set forth in Section 148(f)(4)(B) of the Internal Revenue Code of 1986, as amended (the "Code"), the City hereby finds, determines and declares that the proceeds of the Refunded Bonds have been totally expended for the governmental purpose for which issued; within six months of the date of issue of the Bonds, the gross proceeds of the Bonds will have been totally expended for the purpose of funding the Escrow Account and paying costs of issuance of the Bonds. Therefore, no rebate of arbitrage profit is required under the Code.

Resolution 97-0772 was unanimously adopted.

Approved September 4, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

BE IT RESOLVED by the City Council of the City of Duluth, Minnesota (the "City"), as follows:  
Section 1. Bond Purpose and Authorization.

1.01 The City has previously issued its \$3,065,000 General Obligation Water Utility Revenue Bonds, dated October 1, 1991 (referred to as the "Prior Bonds"). The Prior Bonds were authorized and issued pursuant to Section 55 of the City Charter and Minnesota Statutes, Section 444.075 and Chapter 475, and other pertinent provisions of the charter and statutes.

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 more than six months before the due date of the obligations, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 It is necessary and desirable that in order to reduce debt service costs the City issue \$2,455,000 General Obligation Water Utility Refunding Bonds, Series 1997D (the "Bonds"), to refund the Prior Bonds, of which \$2,330,000 in principal amount is outstanding (the "Refunded Bonds"). The Refunded Bonds maturing on August 1, 1998 and 1999 will be paid on their stated maturity dates and the Refunded Bonds maturing on and after August 1, 2000, will be redeemed and prepaid on August 1, 1999 (the "Redemption Date").

1.04 The City Council has solicited proposals for the sale of the Bonds in the principal amount of \$2,455,000 and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of First of America Securities of Chicago, Illinois (the "Purchaser"), to purchase the Bonds at a cash price of \$2,430,621.75 plus accrued interest on the total principal amount from September 1, 1997, to the date of delivery of the Bonds and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The Mayor and the City Clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's proposal. The City Treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated September 1, 1997, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof,

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in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates set forth on Exhibit A:

Year	Amount	Interest Rate
1998	\$ 30,000	See Exhibit A
1999	200,000	
2000	205,000	
2001	215,000	
2002	225,000	
2003	235,000	
2004	245,000	
2005	255,000	
2006	270,000	
2007	280,000	
2008	295,000	

2.02 The Bonds maturing in the years 1998 through 2006 shall not be subject to redemption and prepayment before maturity, but those maturing in the year 2007 and subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2006, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to each registered owner of a Bond to be redeemed, at the owner's address shown on the registration books of the City, but the failure to give such mailed notice, or defect in any notice so mailed, shall not affect the validity of the proceedings for the redemption of any Bond not affected by such failure or defect. If applicable, notice shall be given in accordance with the terms of the Representation Letter described in Section 2.06A hereof.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing February 1, 1998. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to be

complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the City Clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 A. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City has previously agreed to the applicable provisions set forth in the Blanket Issuer Letter of Representations which has been executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. Additional matters with respect to, among other things, notices, consents and approvals by Bond holders and payments on the Bonds are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

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

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

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF ST. LOUIS  
CITY OF DULUTH  
GENERAL OBLIGATION WATER UTILITY  
REFUNDING BOND, SERIES 1997D

R-1 \$\_\_\_\_\_

<u>Interest</u> <u>Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	February 1, _____	September 1, 1997	

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 September 1, 1997, 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, 1998. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$2,455,000, all of like date and tenor, except as to number, amount, maturity date

and interest rate, pursuant to the authority contained in the City Charter and Minnesota Statutes, Chapter 475 and all other laws thereunto enabling, and pursuant to authorizing resolutions adopted by the governing body of the City on September 4, 1997 (the "Resolution"), and is issued for the purpose of providing money to refund the outstanding principal amount of the \$3,065,000 General Obligation Water Utility Revenue Bonds, dated October 1, 1991. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the municipal water utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the Bonds of this series, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal water utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds of this issue.

The Bonds of this series maturing in the years 1998 through 2006 are not subject to redemption before maturity, but those maturing in the year 2007 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2006, 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.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

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

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's





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9/\_\_\_/97 Cede and Co. \_\_\_\_\_  
c/o The Depository Trust  
Company  
55 Water Street  
New York, NY 10041  
Federal Taxpayer I.D. No.:  
13-2555119

ASSIGNMENT

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Name and Address of Assignee)

\_\_\_\_\_ Social Security or Other  
\_\_\_\_\_ Identifying Number of Assignee

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

Dated: \_\_\_\_\_.

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

Signature Guaranteed:

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

Section 3. Covenants, Accounts and Representations.

3.01 The City Council covenants and agrees with the holders of the Bonds issued hereunder and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal water utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds issued hereunder and on all other bonds heretofore or hereafter issued and made

payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this Section.

3.02 The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal water utility in a separate Water Utility Operating Account (the "Operating Account") within the Public Utility Water Fund maintained under Section 54 of the City Charter. Except as provided herein and in Sections 3.03 and 3.04, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal water utility, and to maintain such reasonable reserves for such expenses as the Director of Finance and Records shall determine to be necessary from time to time in accordance with policies established by the City Council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all water utility bonds when due.

3.03 A. Debt Service Fund. For the convenience and proper administration of the monies to be borrowed and repaid on the Bonds and to provide adequate and specific security for the Purchaser and holders from time to time of the Bonds there is hereby created a special account to be designated the 1997 General Obligation Water Utility Refunding Bonds Debt Service Account ("Debt Service Fund") within the Public Utility Water Fund to be administered and maintained by the City Treasurer as a bookkeeping account separate and apart from all other funds maintained in the official financial records of the City. The Debt Service Fund shall be maintained in the manner herein specified until all of the Bonds and interest thereon have been fully paid. There shall be maintained in the Debt Service Fund two separate accounts, to be designated the Escrow Account and the Debt Service Account.

B. Debt Service Account. To the Debt Service Account there is hereby pledged and irrevocably appropriated and there shall be credited: (i) any balance remitted to the City upon termination of the Escrow Agreement; (ii) any balance in the debt service fund created by the Resolution of the City Council authorizing the issuance and sale of the Prior Bonds (the "Prior Resolution"); and (iii) transfer from the Operating Account to the Debt Service Account amounts of the net revenues sufficient for the payment of all interest and principal then due on the Bonds, and all charges due to the Bond Registrar; such transfers shall be made at the times and in the amounts determined by the Treasurer, in accordance with policies established by resolutions of the City Council. The amount of any surplus remaining in the Debt Service Account when the Bonds and interest thereon are paid shall be used as provided in Section 475.61, Subdivision 4 of the Act.

C. Escrow Account. (i) The proceeds of the Bonds received from the Purchaser (not including amounts appropriated to the Debt Service Account or used for payment of costs of issuance of the Bonds), plus accrued interest on the Bonds advanced by the Purchaser on the date of closing and delivery of the Bonds (the "Proceeds") and funds of the City in an amount sufficient to meet the requirements of the Escrow Account (the "Funds"), together with investment earnings on such monies, are irrevocably appropriated to the Escrow Account in the Debt Service Fund for the payment of principal and interest on the Refunded Bonds to and including the Redemption Date and redemption of the portion of the Refunded Bonds called for prepayment on the Redemption Date.

(ii) The Escrow Account shall be maintained with the Bond Registrar, as escrow agent, 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, and said financial institution is hereby designated escrow agent ("the Escrow Agent")

for the Escrow Account. The Escrow Account shall be invested in securities maturing or callable at the option of the holder on such dates and bearing interest at such rates as shall be required to provide sufficient funds together with any cash or other funds retained in the Escrow Account to pay when due the interest to accrue on the Refunded Bonds to and including the Redemption Date and to pay when due, and to redeem on the Redemption Date the principal amount of each of the Refunded Bonds. From the Escrow Account there shall be paid: (1) all interest paid on or to be paid on or to accrue on the Refunded Bonds to and including the Redemption Date and (2) the principal of the Refunded Bonds due on August 1, 1998 and 1999 and, by reason of redemption, the principal amount of the Refunded Bonds called for prepayment on the Redemption Date. The Escrow Account shall be irrevocably appropriated to the payment of the principal and interest on the Refunded Bonds. The monies in the Escrow Account shall be used solely for the purposes herein set forth and for no other purpose, except that any surplus in the Escrow Account may be remitted to the City all in accordance with the Escrow Agreement hereafter defined by and between the City and the Escrow Agent. Any monies remitted to the City upon termination of the Escrow Agreement shall be deposited in the Debt Service Fund.

D. The separate accounts established by the Prior Resolution for payment of principal and interest on the Prior Bonds are hereby terminated and any moneys remaining therein shall be transferred to the Debt Service Account for the Bonds established in this Resolution.

E. It is hereby determined that upon the receipt of the Proceeds of the Bonds for payment of the Refunded Bonds that an irrevocable appropriation to the Prior Resolution debt service fund shall have been made within the meaning of Section 475.61, Subdivision 3 of the Act and the Clerk is hereby authorized and directed to certify such fact to and request the County Auditor to cancel any and all tax levies made by the Prior Resolution.

3.04 Surplus utility revenues from time to time received in the Operating Account, in excess of payments due from and reserves required to be maintained in the Operating Account and in said Debt Service Account, may be used for necessary capital expenditures for the improvement of the utility, for the prepayment and redemption of bonds constituting a lien on the utility, and for any other proper municipal purpose consistent with policies established by resolutions of the City Council.

3.05 If the balances in the Debt Service Account are ever insufficient to pay all principal and interest then due on the Bonds, the Treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Account when the balances therein are sufficient. It is estimated that the net revenues herein pledged and appropriated to said Debt Service Account will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 4. Refunding; Findings; Redemption of Refunded Bonds.

4.01 A. It is hereby found and determined, based upon information presently available from the City's financial advisers, that as of the nominal date of the Bonds, the issuance of the Bonds will result in a reduction of debt service cost to the City on the Refunded Bonds. The approximate dollar value of such debt service cost savings (the "Reduction") is \$60,993, and the approximate present value of the Reduction is \$91,727, which represents a debt service cost savings of approximately 3.64%.

B. It is hereby found and determined that the Proceeds and Funds available and appropriated to the Escrow Account will be sufficient, together with the permitted earnings on the investment of the Escrow Account, to pay all of the principal of the Refunded Bonds due on August 1, 1998 and 1999 and, by reason of redemption, the principal amount of the Refunded Bonds called for prepayment on the Redemption Date and the interest coming due on the Refunded Bonds to and including the Redemption Date.

4.02 Securities purchased from the monies in the Escrow Account shall be limited to securities specified in Section 475.67, Subdivision 8 of the Act. Securities purchased for the Escrow Account shall be purchased simultaneously with the delivery of and payment for the Bonds. The Mayor and the City Clerk are authorized and directed to purchase such securities.

4.03 The Refunded Bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of Notice of Call for Redemption attached hereto as Exhibit B, which terms and conditions are hereby approved and incorporated herein by reference. The City Clerk or the designee thereof is hereby authorized and directed to forthwith publish the Notice of Call for Redemption in a publication qualified under Section 475.54 of the Act and to send written notice of call to the bond registrar and paying agent, as the case may be, for the Refunded Bonds.

4.04 On or prior to the delivery of the Bonds, the Mayor and the City Clerk are hereby authorized and directed to execute on behalf of the City an escrow agreement (the "Escrow Agreement") with the Escrow Agent. The execution and delivery of the Escrow 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 and the City 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.

4.05 When all Bonds and all interest thereon have been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this Resolution to the holders of the Bonds and the Prior Bonds shall cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal of and interest on the Bonds shall remain in full force and effect. The City may discharge all Bonds which are due on any date by depositing with the Bond Registrar on or before that date a sum sufficient for the payment thereof in full; if any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Bond Registrar designated in Section 2.05 hereof a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit. The City may also at any time discharge and cause defeasance of the Bonds in their entirety by complying with the provisions of Section 475.67 of Minnesota Statutes, 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 5. Continuing Disclosure.

The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and

to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the Mayor and the Clerk are hereby authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the City Clerk.

Section 6. Certificate of Proceedings.

6.01 The City Clerk is directed to file with the County Auditor a certified copy of this Resolution and such other information as the County Auditor may require, and to obtain from the County Auditor a certificate stating that the Bonds herein authorized have been duly entered on his register.

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

6.03 The officers of the City are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the sale of the Bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

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 For purposes of qualifying for the six-month spending exemption to the federal arbitrage rebate requirement set forth in Section 148(f)(4)(B) of the Internal Revenue Code of 1986, as amended (the "Code"), the City hereby finds, determines and declares that the proceeds of the Refunded Bonds have been totally expended for the governmental purpose for which issued; within six months of the date of issue of the Bonds, the gross proceeds of the Bonds will have been totally expended for the purpose of funding the Escrow Account and paying costs of issuance of the Bonds. Therefore, no rebate of arbitrage profit is required under the Code.

Resolution 97-0773 was unanimously adopted.

Approved September 4, 1997

GARY L. DOTY, Mayor

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

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

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, September 8, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0908-19 Center City Housing Corporation submitting communication pertaining to loans. -- Received

97-0908-01 The following submitting communications pertaining to the proposed branch library at Mount Royal Center (97-0651R): (a) Friends of the Duluth Public Library (supported by 1,380 signatures); (b) Rebecka George; (c) Cindy Miller; (d) Nancy A. Nelson; (e) Cathy and David Nevanen. -- Received

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**REPORTS OF OFFICERS**

97-0908-21 Mayor Doty submitting 1998 budget. -- Received

97-0908-02 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (bingo and raffle) from St. Michael's Church on November 16, 1997. -- Received

97-0908-03 Community development and housing division submitting: (a) 1998 CDBG funding requests and recommendations; (b) HRA report for the HUD CD-funded housing rehabilitation program for June 1997. -- Received

97-0908-10 Purchasing agent submitting emergency order awarded to Levine & Son, Inc., for repair of sanitary sewer in Fourth Avenue West and Superior Street. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

97-0908-09 Board of directors of trusts for Miller-Dwan Medical Center minutes of: (a) June 19; (b) July 17, 1997, meetings. -- Received

97-0908-04 Board of zoning appeals minutes of July 22, 1997, meeting. -- Received

97-0908-05 Citywide citizens advisory committee minutes of: (a) August 25; (b) August 26, 1997, meetings. -- Received

97-0908-06 Civil service board minutes of August 5, 1997, meeting. -- Received

97-0908-07 Duluth airport authority minutes of: (a) July 15; (b) August 12, 1997, meetings. -- Received

97-0908-08 Duluth housing trust fund board minutes of July 9, 1997, meeting. -- Received

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**OPPORTUNITY FOR CITIZENS TO BE HEARD**

Terese Bedard spoke of her concern of the need for a stop light on Grand Avenue.

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The following speakers spoke in support of construction of a skateboard park: Seth Anderson, Matt Fowler, Mary Riddell, Erin Finnegan, Dustin Ran, Matt Jeneson, David Betts, Ron Gerst, Travis Morrison and Giang Ly. Reasons supporting a skateboard park were as follows: there is a site available that will not conflict with other uses; the site will not be used as a hang out; it will be supervised; it will be available for other uses in the winter season; a petition that contains 95 signatures has been submitted supporting the park; it can be used for multiple activities such as

for bikes, rollerblades and skateboards; this activity deserves the same support that other activities such as soccer and hockey receive; the city may experience an increase in revenue from tournaments that can be held; by designating a specific site for skateboarding, the police will have fewer calls to investigate; and skateboarders are willing to pay a reasonable fee for a park that is well designed. It was noted that speed skaters are working to raise funds for a feasibility study to investigate the construction of a freestyle skate park; there is a need for an area for skaters that will not impose on tourists and others; and that regulations can be established to require protective gear to be worn. Speakers requested that a task force be established to look into the issue.

Responding to councilor questions, Mayor Doty stated that he would set up a representative group of the various interests to put some information together.

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Tom Haney noted that city parks need restroom facilities.

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### **RESOLUTION TABLED**

Councilor Prettner Solon moved to remove Resolution 97-0651, authorizing proper city officials to enter into an agreement with PLB LLC to provide leased premises for a branch library facility at Mount Royal Center at an annual cost of \$102,240 and to construct improvements to the leased premises at a cost of \$195,000, from the table, which motion was seconded and unanimously carried.

Councilor Hogg moved to suspend the rules to consider Resolution 97-0746, by Councilor Keenan, requesting the mayor to negotiate a two month moratorium on implementation of the city's lease of premises at Mount Royal Center for a branch library facility to enable the city council to obtain additional public input on the desirability of entering into such lease, because it pertains to the same issue, which motion was seconded and unanimously carried.

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

Anne Roberts, representing People's Disabilities For Change, stated that the two libraries proposed to be replaced are inaccessible for the individuals that she represents and that the new Mount Royal facility will accommodate them.

Joe Perfetti, representing Friends of the Duluth Public Library, reviewed the purpose of the organization and spoke of a petition containing 1,380 names of individuals who support the Mount Royal Library. Mr. Perfetti reviewed advantages of the Mount Royal library such as accessibility, better technology and modernization, better off street parking and more staff and increased hours.

Responding to Councilor Keenan, Beth Kelly, director of the Duluth public library, stated that when she was made aware that the Friends of the Library were soliciting people to sign the petition in the lobby, she requested them to leave and that the library board will adopt a formal policy with regard to this issue.

Responding to Councilor Bohlmann with regard to the appropriateness of the Friends of the Library to lobby on this issue, Wendy Wennberg, public information coordinator for the public library, noted that regulations for an organization with a budget of less than \$500,000, that have 501c status, limit the amount that can be spent for lobbying to 20 percent of their budget. Ms. Wennberg noted that an expenditure of approximately \$3,000 would have been allowed, however, less than \$200 was spent for this petition drive.

Responding to Councilor Hales, Mr. Perfetti stated that the organization has about 300 members who were notified of the Friends of the Library's support for the new library.

The following individuals spoke against the proposed Mount Royal site for the library: Mary Lee; Lyle Ronning; Herb Bergson, former mayor of the city of Superior, Wisconsin; Phil Storsteen, school board member; Susan Perala-Dewey; Randy Virta; Inez Lillejard; Tom Haney; Nancy

Crosby; Tim Allen; Cyri Lillejard; Armand Johnson; and Jim Van Dell. Concerns raised by opponents were: the safety of young children using this facility with regard to traffic; neighborhood libraries allow for independent access by kids; the new location will take accessibility away from a huge portion of the population; the closing of schools and libraries has an adverse effect on neighborhoods; the three neighborhoods should not have to compete with each other and this project should be a win/win situation for all involved; there has not been enough opportunity for citizen input; when the issue came up in Superior, all citizens' input was sought and there was greater support for the final layout; there has been a lack of communication on this issue; some members of the Friends of the Library were not contacted to discuss the issue; the speed with which this issue was decided; the school district supports an increase in reading programs; that neighborhood libraries can not be kept open during the summer and evenings; the school board could be asked to make the Ordean and Woodland middle school libraries open to the public; the Woodland and Lester Park libraries have not been properly maintained and it would take the same amount of dollars to fix up the two older, more beautiful libraries; the 1,144 names on a petition opposing this library are city wide; architecturally, this shopping area with commercial businesses, grocery store and post office is not compatible with library usage. It was suggested that more leadership from the mayor and council are needed on this issue; and that the mayor was requested to meet with the building owner to delay this project, noting that it is okay to change your mind.

The following speakers spoke in support of the Mount Royal site for the library: Nancy Gruver; Trudy North; Bill Sozanski, director of the UMD library; Carol Bacig; Carol Kelley; Simon Lang; Grant Johnson and Pirintha Markert. Reasons stated in support of the new library were: the hours at the old branches are limited and the resources that will be available at a new library are needed; this is a city issue and not a neighborhood issue; more neighborhoods can utilize the new facility than was possible with the older libraries; there was not support for closing the old Carnegie library, but the new Superior Street library is much more accommodating and the same will be true with this library; maintaining two or three libraries is more expensive and difficult; because of poor structural conditions of the Lester Park and Woodland libraries, renovation costs will exceed new building costs; the city needs a facility that is physically sound to keep library resources up to date; the older buildings can be used for other public uses; and the mission of the university library is academic and serves a different purpose than that of the public library and is not intended to replace the need for public libraries.

Councilor Keenan questioned the process that was used regarding this issue and expressed concern about the safety issue. He spoke of a letter from Kent Worley, an architect, raising questions that have not been addressed.

Councilors Hales and Young voiced support for the neighborhoods and Resolution 97-0746.

Councilor Bohlmann reviewed information regarding the history of accidents in the area of Woodland and St. Marie streets and raised concerns over past maintenance of the old libraries and the lack of public input. She stated that the city will have no equity in this facility after years of paying rent for this space.

Councilor Hogg encouraged the city and school board to work closer together and noted that while this may not have been the perfect solution and there are some reservations, the opportunity to make a decision has come. Councilor Hogg moved to call the question, which motion failed upon the following vote:

Yeas: Councilors Rapaich and Talarico -- 2

Nays: Councilors Bohlmann, Hales, Hogg, Keenan, Prettner Solon, Young and President Hardesty -- 7



President Hardesty reviewed the council process used in addressing this issue, and stated that although there are still unresolved issues, she believes they can be resolved and still move forward with the plans for the Mount Royal library.

Councilor Talarico stated that his concerns, with regard to aspects he was not comfortable with, have been addressed and that he now supports proceeding with the project.

Councilor Hales expressed concern that these old historical buildings will not be used and urged the council to take more time to study the issue.

Resolution 97-0651 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the city council hereby authorizes the proper city officials to enter into an agreement substantially in conformance with Public Document No. 97-0811-25, which agreement will provide for the lease of approximately 7,100 square feet of space for a branch library facility at Mount Royal Center and for certain leasehold improvements to be constructed within the leased space, the costs of said agreement to be paid from General Fund 100-500-1950-5412, building rental and Fund 450, capital projects fund.

Resolution 97-0651 was adopted upon the following vote:

Yeas: Councilors Hogg, Prettner Solon, Rapaich, Talarico and President Hardesty -- 5

Nays: Councilors Bohlmann, Hales, Keenan and Young -- 4

Approved September 8, 1997

GARY L. DOTY, Mayor

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Resolution 97-0746 failed upon the following vote (Public Document No. 97-0908-18):

Yeas: Councilors Bohlman, Hales, Keenan and Young -- 4

Nays: Councilors Hogg, Prettner Solon, Rapaich, Talarico and President Hardesty -- 5

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### **MOTIONS AND RESOLUTIONS**

BY COUNCILOR HOGG:

RESOLVED, that pursuant to Minnesota Statutes, Sec. 275.065, the city council adopts the following proposed property tax levy.

Section 1. The sum to be raised by taxation for the year 1998 for general operations is hereby determined to be the sum of \$6,634,091, 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 \$2,463,891;

Section 3. For the payment of debt, there will be levied for the general obligation debt fund the sum of \$3,780,200;

Section 4. That pursuant to laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$390,000.

Resolution 97-0750 was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Young -- 3

Approved September 8, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

RESOLVED, that pursuant to Minnesota Statutes, Sec. 275.065, the city council adopts the following proposed property tax levy:

Section 1. The sum to be raised by taxation for the year 1998 for Duluth transit authority operations is hereby determined to be the sum of \$1,733,200, which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following sections, viz:

Section 2. For the payment of interest and principal on the transit bonds, there will be levied for the transit bond fund sum of \$37,200;

Section 3. That pursuant to Minnesota Statutes, Section 458A.31, Subd. 1, there will be levied for transit operations the sum of \$1,696,000.

Resolution 97-0751 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that pursuant to Minnesota Statutes, Sec. 275.065, the city council adopts the following proposed property tax levy:

Section 1. The sum to be raised by taxation for the year 1998 for Seaway Port Authority operations is hereby determined to be the sum of \$269,800, 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. That pursuant to Minnesota Statutes, Section 458.15, there will be levied for the purpose of providing for the Seaway Port authority fund of the city of Duluth the sum of \$269,800.

Resolution 97-0752 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that in accordance with Minnesota Statutes, Sec. 275.065, the city council hereby adopts the following proposed budget for the fiscal year beginning January 1 and ending December 31, 1998:

010	Total legislative and executive - - - - -	\$ 1,490,500
015	Total administrative services - - - - -	\$ 3,819,200
020	Total planning and development - - -	\$ 1,962,900
030	Total finance - - - - -	\$ 2,536,000
100	Total fire - - - - -	\$ 10,800,300
200	Total police - - - - -	\$ 11,204,400
300	Total library - - - - -	\$ 3,426,500
400	Total parks and recreation - - - - -	\$ 1,259,200
500	Total public works - - - - -	\$ 12,121,400
700	Total transfers - - - - -	\$ 7,244,576
	Total general fund	\$ 55,864,976

PUBLIC ENTERPRISE

503	Golf fund - total - - - - -	\$ 1,706,100
504	Zoo fund - total - - - - -	\$ 1,631,500

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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PUBLIC UTILITIES

510	Water fund - total - - - - -	\$ 9,705,800
520	Gas fund - total - - - - -	\$ 30,081,900
530	Sewer fund - total - - - - -	\$ 14,936,416
540	Steam fund - total - - - - -	\$ 3,503,900
	Total all funds subject to appropriation - - - - -	\$117,430,592

Resolution 97-0753 was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Young -- 3

Approved September 8, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that pursuant to the requirements of Minnesota Statutes, Section 275.065, Subd. 6, the Duluth City Council hereby sets the following date and time for the public hearing to adopt the city's final budget of 1998 and final city property tax levy for taxes payable in 1998:

Initial hearing

December 8, 1997, at 7:00 p.m. in the Duluth city council chambers.

Resolution 97-0754 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

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Resolution 97-0767, by Councilor Hogg, calling for an advisory referendum on an increase of the property tax levy to provide funding for the continuation of police officer positions that have been funded by federal grants, was introduced for discussion.

Monte Ollenburger, director of administrative services, briefly reviewed the implications of a "advisory" versus "binding" referendum.

Councilor Keenan and President Hardesty stated their desire to table the resolution for more information on the effects grants have on the city and how they affect tax increment financing districts.

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

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor license, subject to departmental approvals, with any specific restrictions:

Grandma's Inc. (Grandma's Saloon & Deli), 522 Lake Avenue South, for September 26 & 27, 1997.

Resolution 97-0724 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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RESOLVED, that Johnson-Wilson Constructors, Inc., be and hereby is awarded a contract for the London Road business district signage for the city architect division in accordance with specifications on its low specification bid of \$68,800, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C422.

Resolution 97-0759 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Larson Chevrolet-Olds, Inc., be and hereby is awarded a contract for furnishing and delivering a 1998 15,000 pound GVWR truck chassis and utility body for the traffic operations division in accordance with specifications on its low specification bid of \$86,107.06, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2006, Object V620.

Resolution 97-0766 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

WHEREAS, the following organization has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the following organization 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.

Organization

Date Filed

Minnesota Deer Hunters Association, Duluth Chapter      September 2, 1997      raffle waiver

Resolution 97-0770 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

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

TREE COMMISSION

Barbara A. Koth for a term expiring August 31, 1998, replacing John Hedtke who resigned.

Resolution 97-0743 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Approved September 8, 1997  
GARY L. DOTY, Mayor

- - -

Resolution 97-0715, authorizing HOME program CHDO project specific loan agreement with Center City Housing Corporation in the amount of \$10,800; Resolution 97-0721, authorizing 1996 HOME program grant agreement with Center City Housing Corporation in the amount of \$29,000; and Resolution 97-0722, authorizing 1996 HOME program grant agreement with Center City Housing Corporation in the amount of \$26,000, by Councilor Prettner Solon, were introduced for discussion.

Councilor Hales requested that these resolutions be tabled until an upcoming meeting in the Central Hillside with various agencies that may be duplicating these services has been held.

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

Yeas: Councilors Bolhmann, Hales, Hogg, Talarico and Young -- 5

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

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Resolution 97-0718, authorizing Amendment No. 1 to the Year 19 (1996) community development block grant neighborhood housing services administrative services agreement in order to incorporate revised project guidelines at no change in agreement cost; and Resolution 97-0719, authorizing Amendment No. 3 to Year 19 (1996) community development block grant neighborhood housing services revolving loan fund agreement in order to extend the agreement and incorporate revised project guidelines at no change in the agreement cost, by Councilor Prettner Solon, were introduced for discussion.

Responding to Councilor Prettner Solon, Councilor Hales stated that there is no reason to table these resolutions, noting that they have to do with altering a service area for ongoing programs and are different than the previous three tabled resolutions.

Councilor Talarico moved to table the resolutions because they have to do with planning for the same area, which motion was seconded and failed upon the following vote:

Yeas: Councilors Prettner Solon, Rapaich, Talarico and President Hardesty -- 4

Nays: Councilors Bohlmann, Hales, Hogg, Keenan and Young -- 5

Resolution 97-0718 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, pursuant to Resolution No. 97-0108 adopted on February 10, 1997, the city of Duluth (the city), entered into an agreement with Neighborhood Housing Services of Duluth, Inc. (NHS), Duluth, Minnesota, to pay for administrative services for NHS to carry out a coordinated program of housing rehabilitation and neighborhood preservation (the agreement), payable from the 1996 federal program Fund 262 - community development - NHS housing project Account 6902; and

WHEREAS, parties desire to amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 1, a copy of which is on file in the office of the city clerk as Public Document No. 97-0908-11, to the agreement with NHS which revises the project operating guidelines at no change in total agreement cost.

Resolution 97-0718 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Resolution 97-0719 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, pursuant to Resolution No. 96-0506 adopted on June 10, 1996, the city of Duluth (the city), entered into an agreement with Neighborhood Housing Services of Duluth, Inc. (NHS), Duluth, Minnesota, in which NHS agreed to operate a revolving loan fund to carry out a coordinated program of housing rehabilitation and neighborhood preservation (the agreement), payable from the 1996 federal program Fund 262 - community development - NHS housing project Account 6902; and

WHEREAS, Amendment No. 1 to the agreement was authorized by city council Resolution No. 96-1031, adopted on December 16, 1996; and

WHEREAS, Amendment No. 2 to the agreement was authorized by city council Resolution 97-0107, passed on February 10, 1997; and

WHEREAS, parties desire to further amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 3, a copy of which is on file in the office of the city clerk as Public Document No. 97-0908-12, to the agreement with NHS which revises the project operating guidelines and extends the agreement for one year at no change in compensation under the terms of the agreement.

Resolution 97-0719 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into the first amendment to city Contract No. 17841, a copy of which is on file in the office of the city clerk as Public Document No. 97-0908-13, with RREM, Inc., for additional services related to the filling of Slip Nos. 1 and 2 in Bayfront, increasing the amount payable thereunder by \$4,750. This amount is to be paid from Fund 450, Agency 015, Org. 1996, Object C602.

Resolution 97-0736 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into a limited use permit, a copy of which is on file in the office of the city clerk as Public Document No. 97-0908-14, with the state of Minnesota department of transportation pursuant to which the state will permit the city to construct a parking lot on property owned by the state east of 26th Avenue East for use of the public in conjunction with Lakewalk.

Resolution 97-0737 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0738, affirming the decision of the board of zoning appeals to deny a request to relax the side yard setback from 20 feet to five feet (a 75 percent reduction) and relax the rear yard setback from five feet to three feet (a 40 percent reduction) for the construction of a new detached 30 feet by 24 feet garage on property located at 1907 Columbus Avenue; and Resolution 97-0739,

modifying the decision of the board of zoning appeals to deny a request to relax the side yard setback from 20 feet to five feet (a 75 percent reduction) and relax the rear yard setback from five feet to three feet (a 40 percent reduction) for the construction of a new detached 30 feet by 24 feet garage on property located at 1907 Columbus Avenue, by Councilor Prettner Solon, were introduced for discussion.

Councilor Prettner Solon reviewed that a committee meeting regarding these resolutions was held this evening, that some unanswered questions remain and an offer by the applicant to change the conditions of the appeal could not be clarified at the meeting. She moved to refer the resolutions back to the board of zoning appeals for review, which motion was seconded and unanimously carried.

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BY COUNCILOR KEENAN:

RESOLVED, that Popular Subscription Service be and hereby is awarded a contract for furnishing and delivering magazine and periodical subscriptions for the main library and three branches in accordance with specifications on its low specification bid of \$23,530.74, terms net/30, FOB destination, \$19,530.74 payable out of General Fund 100, Dept./Agency 300, Organization 1701, Object 5590 and \$4,000 payable out of library special gifts Fund 740, Dept./Agency 300, Organization SG80, Object 5590.

Resolution 97-0747 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that M.T.I. Distributing, Inc., be and hereby is awarded a contract for furnishing and delivering one 4-wheel drive turf maintenance vehicle and one tow behind top dresser for the Lester Park golf course in accordance with specifications on its low specification bid of \$14,837.66, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object V710.

Resolution 97-0763 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

RESOLVED, proper city officials are hereby authorized to amend city Contract No. 17946 to accept an additional \$157,733 in funds from the Minnesota department of economic security to continue operation of the Minnesota youth program for the period July 1, 1997, through June 30, 1998. This amendment brings total funding amount to \$246,873. A copy of this amendment shall be on file in the city clerk's office as Public Document No. 97-0908-15.

FURTHER RESOLVED, that monies received under this grant shall continue to be deposited in Fund 268, Budget Item 6205.

Resolution 97-0745 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY :

RESOLVED, that the proper city officers are hereby authorized and directed to execute an amendment to an agreement between the city of Duluth and the St. Louis County board for the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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furnishing of meals for senior citizens for the period of July 1, 1997, through December 31, 1997, to increase the payment for elderly waiver meals from \$3.55 to \$3.73, said agreement filed as Public Document No. 97-0908-16. Monies collected under said contract shall be deposited in federal program Fund 272, Dept. 031, Org. 6305.

Resolution 97-0758 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

RESOLVED, that the proper city officers are hereby authorized to enter into a matching grant agreement, a copy of which is on file in the office of the city clerk as Public Document No. 97-0908-20, with the Minnesota historical society for historical research and writing work necessary to nominate the former city hall and police station to the national register of historic places in the amount of \$1,200, said sum to be deposited into Fund 100-015-2020-4230-MS18 (heritage preservation commission).

Resolution 97-0769 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR YOUNG:

RESOLVED, that the proper city officers are authorized and directed to execute an agreement, filed as Public Document No. 97-0908-17, leasing to Duluth/Superior Cellular, Inc., a subsidiary of PRI Cellular Corporation, space on the Woodland water tower and adjacent pump house for installation of communications antennas and equipment for a consideration of \$16,200 per year, said money to be deposited in Water Fund No. 510.

Resolution 97-0749 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR YOUNG:

RESOLVED, that National Propane Corporation be and hereby is awarded a contract for furnishing and delivering 200,000 gallons of liquid propane for the water and gas department in accordance with specifications on its low specification bid of \$87,140, terms net, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0545, Object 5213.

Resolution 97-0764 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to acquire a storm drainage easement hereinafter described from Gregory C. Engel and Cynthia A. Engel for a consideration of \$800, payable from Fund 440, Agency 038, Org. 9701, Obj. 5530.

A permanent utility easement for drainage purposes over, under and across the southwesterly 33 feet of Lot 4, Block 14, Norton's Fairmont Addition, Duluth, Minnesota.

Resolution 97-0744 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR TALARICO:

RESOLVED, that Ulland Brothers, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 13,000 cubic yards of delivered washed winter sand for the street maintenance division in accordance with specifications on its estimated low total bid of \$127,246.75, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5233.

Resolution 97-0748 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0756, by Councilor Talarico, ordering the improvement of Railroad Street from Garfield Avenue to Eighth Avenue West at an estimated cost of \$2,815,912, was introduced for discussion.

Because of unanswered questions regarding the assessment process, Councilor Hogg moved to table the resolution, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Keenan -- 1

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Cutler-Magner Company be and hereby is awarded a contract for furnishing and delivering approximately 6,000 tons of road salt, delivered at a unit cost of \$30.21 per ton for the street maintenance division in accordance with specifications on its low estimated bid total of \$181,260, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5233.

BE IT FURTHER RESOLVED, that proper city officials be authorized to purchase additional salt as needed, based on the lowest unit price.

Resolution 97-0762 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

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Resolution 97-0765, by Councilor Talarico, amending city council Resolution 97-0019, extending the lease agreement and increasing the rent paid for rental of space at the former Duluth Dodge Oldsmobile site (1400 London Road) with Tracy Nelson for street and park maintenance use, was introduced for discussion.

Responding to Councilor Hogg, City Attorney Dinan stated that he is not aware why changes were made to the original lease under Item No. 4, termination.

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

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

Nays: Councilor Keenan -- 1

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BY COUNCILOR HALES:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zone is hereby established for both sides of

Water Street from 130th Avenue West to 1,900 feet southeasterly.

Resolution 97-0755 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that Resolution 97-0226 to Baker Fire Equipment for furnishing turnout gear for the fire department be amended to increase the amount by \$4,083 for a new total of \$14,268, payable out of General Fund 100, Dept./Agency 100, Organization 1502, Object 5218.

Resolution 97-0757 was unanimously adopted.

Approved September 8, 1997

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinance was read for the second time:

BY COUNCILOR PRETTNER SOLON

97-027 (9347) - ORDINANCE AUTHORIZING THE RECONVEYANCE OF CERTAIN PROPERTIES TO THE STATE OF MINNESOTA.

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

- - -

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

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 9347**

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AUTHORIZING THE RECONVEYANCE OF CERTAIN PROPERTIES TO THE STATE OF MINNESOTA.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to execute and deliver the quit claim deed reconveying the following described property in St. Louis County, Minnesota, to the state of Minnesota with the request that it be reconveyed to Mr. Greg Francisco:

Lot 10, rearrangement of part of Outlot K, Morgan Park.

Section 2. That this ordinance shall take affect and be in force 30 days after its passage and publication. (Effective date: October 19, 1997)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed September 8, 1997

Approved September 8, 1997

GARY L. DOTY, Mayor

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, September 15, 1997, 7:35 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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**RESOLUTION TABLED**

Councilor Hogg moved to remove Resolution 97-0767, calling for an advisory referendum on an increase in the property tax levy to provide funding for the continuation of police officer positions that have been funded by federal grants, from the table, which motion was seconded and unanimously carried.

Monte Ollenburger, administrative services department director, stated that Duluth economic development authority (DEDA), has been asked but as yet has not agreed, to forfeit to the general fund any revenues generated by a tax levy increase. He said that since placing this issue on the ballot is very preliminary and is nonbinding, it is the administration's recommendation to pass this resolution while DEDA discusses it further. He noted that the result of an agreement with DEDA to give the funds back to the city to offset the cost of the proposed police programs will be a lowering of the levy, which will further enhance the economic development of the tax increment financing districts.

Responding to Councilor Hogg, Mr. Ollenburger stated that if DEDA agrees to forfeit the newly generated funds to the city the proposed tax levy will be decreased by approximately 1/6.

Councilor Keenan asked if there are other grants which the city can apply for to continue police services when the present grants are exhausted. He stated that with the sales tax projections quoted to him by Mr. Ollenburger, he is convinced the city can fund the additional police positions from the budget as currently proposed.

Mr. Ollenburger stated that there are no other grants available to continue funding these positions and even if there were new grant programs, the funds would have to be used for some other specific purpose. He noted that the tax levy increase to be voted on is specifically for 1998 and that if sales tax revenues rebound next year, the increase for 1999 and the following years will not be necessary.

Councilor Keenan noted that the one percent sales tax was only supposed to be temporary at the time it was approved, yet the city will not give it up because it believes it needs it.

Councilor Talarico stated he believes this issue includes two major questions to focus on, the first of which is whether there is consensus that an advisory or binding referendum is an appropriate vehicle to move forward on. He said the second question is, if the council is looking toward the referendum, how will it be addressed. If the council finds the referendum is appropriate, Councilor Talarico questioned if it should be advisory or binding.

Responding to Councilor Young, Mr. Ollenburger stated that technically the city has levy limits, but the council has the authority to increase the levy to almost any level it chooses. He clarified that the request in the referendum would be advisory on a four year program, but any action the council takes on the budget will only be an increase in levy for 1998. Mr. Ollenburger further explained that the proposed 1998 budget includes a 6.1 percent increase in the levy to cover the cost of these additional police programs; however, it is the mayor's choice to send the referendum to the voters to determine what the residents want.

Councilor Hales noted that she sees three options with regard to this issue: first, hold an advisory referendum to capture some of the increase in TIF's, second, increase the tax levy, or third, not raise taxes at all. She requested data with regard to the reorganization of the police department which will occur in January of 1998. Councilor Hales said that the documentation she has received supports 1.5 officers per 1,000 residents and questioned why two to three officers per 1,000 are being proposed. She noted that according to the information she has received, the department has lost 15 officers in the past year due to attrition, etc.

Responding to Councilor Hogg, Mayor Doty concurred that he supports retention and addition of the officers in question, but it is his intent to abide by the wishes of the voters with regard to an increase in taxes.

Responding to Councilor Hogg, Mr. Ollenburger stated that if the referendum is not approved, it is the intent of the administration not to add ten new officers and to reduce the number of existing positions by ten, which is the amount funded by the grant, through attrition as officers retire or leave, and not by means of layoffs.

Responding to Councilor Hogg, Scott Lyons, chief of police, stated that the impact to the community of losing ten police officer positions will cause the department to move back from being proactive, which has been the police department's goal in past years, to reactive. He noted that the department has experienced a 20 percent increase in it's emergency calls and if the department personnel is decreased, officers presently involved in neighborhood programs will be called on to work patrol to keep response times at a minimum. Chief Lyons stated that the proposed 20 new officers are not related to the 15 officers that the department lost within the last year, and that of those 15 positions, 13 have been filled. He stated that 95 percent of his budget is for personnel and if the \$355,000 that is expected to be raised by means of this levy is not received, positions will be lost and the department will again be placed in an undesirable reactive mode.

Councilor Prettner Solon supported proceeding with the referendum so that the council knows how best to represent the voters.

Councilor Bohlmann stated she believes the council should increase the levy to include funding for these programs and not make it an emotional issue by telling the voters that if they do not approve this referendum, they will lose services. She stated that instead of increasing the levy, her preference is that the administration cut back on some of what she believes are unnecessary studies that cost the city thousands of dollars and fund the additional police services through existing levy.

Responding to President Hardesty, Mayor Doty acknowledged that this is a one time permanent levy increase for the purpose of funding the proposed additional police officers for 1998, but which will remain in effect indefinitely. He said that the intent is to dedicate these funds to these police positions for 1998 and continue to fund the positions in the future, but does not preclude the council from eliminating police officer positions in the future, which would result in the funds being used for some other purpose unless the council lowers the levy.

Responding to President Hardesty, Mr. Ollenburger acknowledged that if sales tax revenues rebound in the last quarter of 1997, the council may, if it chooses, levy on December 15 a lesser amount than what is proposed but it may not exceed the proposed amount.

Councilor Hogg reminded councilors that the tax levy increase has already been included in the proposed budget which the council has approved so that in the event the resolution calling for a referendum fails, the council still has the ability to make the decision as to whether the police officers should be funded with an increase in taxes.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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

Nays: Councilor Prettner Solon -- 1

Resolution 97-0767 failed upon the following vote (Public Document No. 97-0915-01):

Yeas: Councilors Prettner Solon, Rapaich and Talarico -- 3

Nays: Councilors Bohlmann, Hales, Hogg, Keenan, Young and President Hardesty -- 6

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**MOTIONS AND RESOLUTIONS**

BY COUNCILOR RAPAICH:

WHEREAS, on September 9, 1997, there was held in the city of Duluth, pursuant to the provisions of Laws of Minnesota, 1973, Chapter 281, a primary municipal election for the purpose of electing certain city officers; and

WHEREAS, the judges of the election districts in the city have made their returns of said election, and the city council acting as a canvassing board has duly canvassed said returns (Public Document No. 97-0915-02) at 7:35 p.m., September 15, 1997, and ascertained the number of ballots cast at said election and thereby declared that at said election there were 8,588 cast votes, said votes having been cast in the following manner:

That the following are the results:

Councilor at Large

Patty Edwards	4,089
Peter Farell	478
Carl Hammerberg, Sr.	693
Lynn Hardesty	5,514
Frank Jara	135
Davy Jones	480
Paul A. Olson	164
Guy Sederski	2,068
Bruce Wyman	1,391
Jim Young	556

Councilor - Second District

Kay Biga	938
Paul Huston	272
Greg Gilbert	591
Richard Krull	201
Randy Virta	170

Councilor - Fourth District

Richard Cihoski	116
Kevin Helquist	102
Jonathan J. Lee	181
Dang Phan	35
Dale Swapinski	1,083

NOW THEREFORE, BE IT RESOLVED, that Patty Edwards, Lynn Hardesty, Guy E. Sederski and Bruce M. Wyman, having received the four largest numbers of the votes cast at said election

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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for councilor at large, are hereby certified to have their names placed on the general municipal election ballot and the city clerk is hereby directed to place their names on the general municipal election ballot.

BE IT FURTHER RESOLVED, that Kay Biga and Greg Gilbert, having the two largest numbers of the votes cast at said election for councilor second district, are hereby certified to have their names placed on the general municipal election ballot and the city clerk is hereby directed to place their names on the general municipal election ballot.

BE IT FURTHER RESOLVED, that Jonathan James Lee and Dale Swapinski, having received the two largest numbers of the votes cast at said election for councilor fourth district, are hereby certified to have their names placed on the general municipal election ballot and the city clerk is hereby directed to place their names on the general municipal election ballot.

Resolution 97-0779 was unanimously adopted.

Approved September 15, 1997

GARY L. DOTY, Mayor

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The meeting was adjourned at 8:55 p.m.

JEFFREY J. COX, City Clerk

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, September 22, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-0922-02 Arrowhead Development Corporation submitting petition for vacation of Silverberry Circle. -- Assessor

97-0922-01 Lyric Block Development Corporation petitioning to vacate part of the Holiday Mall pedestrian walkway. -- Assessor

97-0922-26 Dovolis Johnson & Ruggieri, Inc., and J. Michael Construction, by William M. Burns, attorney, submitting appeal of the planning commission decision pertaining to proposed development on property located at 3400 London Road and 100 North 32nd Avenue East (Glensheen Estates). -- Committee 2 (planning)

97-0922-15 The following submitting communications pertaining to conveyance of a tax forfeit parcel to the city of Duluth (97-0792R): (a) Harvey Henge; (b) John W. and Virginia M. Soeteber (supported by 34 signatures). -- Received

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**REPORTS OF OFFICERS**

97-0922-03 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from St. Mary's Medical Center on November 5, 1997. -- Received

97-0922-04 Community development and housing division submitting HUD CD quarterly report (April - June 1997). -- Received

97-0922-05 Engineering division submitting monthly project status report for September 1, 1997. -- Received

97-0922-06 Parks and recreation department director submitting Lake Superior zoological society minutes of July 31, 1997, meeting. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

97-0922-07 Board of zoning appeals minutes of August 26, 1997, meeting. -- Received

97-0922-08 Building appeal board minutes of: (a) April 9; (b) May 14; (c) June 11; (d) July 9; (e) August 13, 1997, meetings. -- Received

97-0922-09 Citywide citizens advisory committee minutes of September 2, 1997, meeting. -- Received

97-0922-10 Duluth airport authority minutes of August 19, 1997, meeting. -- Received

97-0922-11 Duluth housing trust fund board minutes of: (a) July 9; (b) August 14, 1997, meetings. -- Received

97-0922-12 Sanitary sewer board of WLSSD minutes of August 18, 1997, meeting. -- Received

97-0922-13 Special assessment board minutes of August 12, 1997, meeting. -- Received

97-0922-14 Tree commission minutes of August 18, 1997, meeting. -- Received

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**RESOLUTIONS TABLED**

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Councilor Talarico moved to remove Resolution 97-0756, ordering the improvement of Railroad Street from Garfield Avenue to Eighth Avenue West at an estimated cost of \$2,815,912, from the table, which motion was seconded and unanimously carried.

Councilor Hogg stated that he received information regarding the assessment rate and noted that the project was part of the 1996 street improvement project, which charged \$30 a foot.

Responding to Councilor Bohlmann, Administrative Assistant Nollenberger stated that the railroads will also be assessed at that rate.

Resolution 97-0756 was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that it is deemed necessary for public convenience and safety and it is hereby ordered that Railroad Street from Garfield Avenue to Eighth Avenue West (City Job. No. 8754MA93)(State Aid Project 118-119-08) be improved.

RESOLVED FURTHER, that said work be done by contract and that the estimated cost of said project as estimated by the city engineer is \$2,815,912; \$2,087,252 from municipal state aid funds, \$148,704 from Permanent Improvement Fund 411, \$33,790 from Sanitary Sewer Fund 530, \$27,593 from Water and Gas Fund 510, \$263,723 from Water and Gas Fund 520, and \$254,850 from Special Assessment Fund 810, Agency 938, Organization 5299, Object 5530 is assessable to abutting property at \$30 per front foot.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 61 of the City Charter, and that said improvement is hereby ordered.

Resolution 97-0756 was unanimously adopted.

Approved September 22, 1997

GARY L. DOTY, Mayor

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Councilor Talarico moved to remove Resolution 97-0765, amending city council Resolution 97-0019, extending the lease agreement and increasing the rent paid for rental of space at the former Duluth Dodge Oldsmobile site (1400 London Road) with Tracy Nelson for street and park maintenance use, from the table, which motion was seconded and unanimously carried.

Resolution 97-0765 was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to City Contract No. 17886, substantially in the form of that on file in the office of the city clerk as Public Document No. 97-0922-16, which provides rental of space at the former Duluth Dodge Oldsmobile site (1400 London Road), extending the lease period by an additional 20 months and increasing the amount payable thereunder by three percent, payable from 100-500-1920-5412 (building rental).

Resolution 97-0765 was unanimously adopted.

Approved September 22, 1997

GARY L. DOTY, Mayor

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**MOTIONS AND RESOLUTIONS**

BY COUNCILOR RAPAICH:

RESOLVED, that Kayser Ford be and hereby is awarded a contract for furnishing and delivering a police squad vehicle for the police department in accordance with specifications on its low specification bid of \$22,162.07, terms net 30, FOB shipping point, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2007, Object V701.

Resolution 97-0789 was unanimously adopted.



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Approved September 22, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

WHEREAS, DWD II Corporation, d/b/a Check Cashing of Duluth, has applied to the Minnesota department of commerce for a license to transact the business of a currency exchange at its offices at 101 East Superior Street; and

WHEREAS, the Duluth City Council has received a copy of the license application from the director of licensing of the department of commerce and can object to the issuance of said license; and

WHEREAS, the Duluth City Council has no objection to the issuance of said license to transact the business of a currency exchange.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota department of commerce issuing a license to conduct the business of a currency exchange at 101 East Superior Street to DWD II Corporation, d/b/a Check Cashing of Duluth.

Resolution 97-0794 was unanimously adopted.

Approved September 22, 1997  
GARY L. DOTY, Mayor

- - -

Resolution 97-0800, by Councilor Rapaich, approving the exemption of a raffle license for Duluth Area Chamber of Commerce and Duluth Area Asbestos Workers joint apprenticeship and training fund, was introduced for discussion.

Councilor Hales moved to amend the resolution by changing the phrase "exemption of a raffle license" to "exemption of raffle licenses" in the title; in the fourth paragraph of the resolution, second line, delete "a" after the word "issuing"; and in the third line, add "s" to the word "exemption," which motion was seconded and unanimously carried.

Resolution 97-0800, as amended, was adopted as follows:

BY COUNCILOR RAPAICH:

WHEREAS, the Duluth Area Chamber of Commerce and the Duluth Area Asbestos Workers Joint Apprenticeship & Training Fund have applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing lawful gambling exemptions to the the Duluth Area Chamber of Commerce and the Duluth Area Asbestos Workers Joint Apprenticeship & Training Fund 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 97-0800, as amended, was unanimously adopted.

Approved September 22, 1997  
GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR RAPAICH:

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

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

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

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

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
1. Elks Lodge #133	Country Lanes North	August 29, 1997
Elks Lodge #133	4250 Haines Road	August 29, 1997
2. Hoop Club, Inc.	Sneakers Bar & Lounge	September 2, 1997
3. National Mult. Sclerosis Duluth Chapter	Canal Park Inn	September 3, 1997
	Casa De Roma	September 3, 1997
	Casa De Roma (renewal)	September 3, 1997
4. Blue Line Club of Duluth	Convention Center	September 16, 1997
5. Irving Youth Hockey	North Pole Bar	September 4, 1997
6. Lester Park Hockey	O'Gilby's	May 29, 1997

Resolution 97-0801 was unanimously adopted.

Approved September 22, 1997

GARY L. DOTY, City Clerk

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following on sale wine license for the period ending August 31, 1998, subject to departmental approvals, the payment of sales and property taxes and further subject to approval of the liquor control commissioner:

Scott Thompson and Ok Boon Kim (Louis' Cafe), 3904 Grand Avenue, with Ok Boon Kim, 64 percent stockholder and Scott Thompson, 36 percent stockholder.

Resolution 97-0802 was unanimously adopted.

Approved September 22, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license and approves issuance of an on sale wine license for the period ending April 30, 1998, and August 31, 1998, respectively, subject to departmental approvals and the payment of sales and property taxes and further subject to approval of the liquor control commissioner:

Chinese of Duluth, Inc. (Chinese Garden), 231 East Superior Street, with Po Ka Tse, president and 100 percent stockholder.

Resolution 97-0803 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Approved September 22, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

ANIMAL HUMANE BOARD

Larry D. Anderson for a term expiring October 31, 2002.

Resolution 97-0774 was unanimously adopted.

Approved September 22, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

DULUTH HOUSING TRUST FUND BOARD

Marsha Blackburn (lending institutions) for a term expiring September 30, 2000.

Resolution 97-0775 was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Approved September 22, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the city of Duluth does hereby accept an easement in the form of that on file in the office of the city clerk as Public Document No. 97-0922-17 from Moline Machinery Ltd. over a portion of that property in St. Louis County, Minnesota, described as the north one-half of Section 18, Township 49 North, Range 14 West of the Fourth Prime Meridian as described in said document for the construction of the Keene Creek Trail.

Resolution 97-0788 was unanimously adopted.

Approved September 22, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the Duluth City Council has previously adopted Resolution Nos. 88-0232 and 94-0121 which granted a special use permit to Dr. Robert Torgrimson for a clinic in a residential zone and Dr. Torgrimson has submitted to the city council a request for an amendment to said permit to provide for additional off street parking on the property described as Lots 1-10, Block 2, Kenwood Park Addition, located at 1410 Kenwood Avenue; and said permit amendment was duly referred to the city planning commission for a study, report and public hearing and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval of the amendment was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that an amendment to the special use permit is hereby granted to Dr. Robert Torgrimson to allow expanded parking for the clinic on the condition

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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that the improvements be constructed as identified in Public Document No. 97-0922-18.

Resolution 97-0791 was unanimously adopted.

Approved September 22, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0792, by Councilor Prettner Solon, requesting the board of county commissioners of St. Louis County to reclassify from conservation to nonconservation and to offer for sale certain tax forfeited parcels now withheld from sale in conservation and to free convey certain tax forfeit parcels to the city of Duluth, was introduced for discussion.

Councilor Prettner Solon moved to amend the resolution to divide out "file #97113, city of Duluth, part 2, Lots 210 through 218, Upper Duluth, Minnesota Avenue (10-4400-2230) Lots 220, Upper Duluth, St. Louis Avenue (10-4400-2280); west side of Minnesota Avenue between Eighth and Ninth Streets (Park Point)," which motion was seconded and unanimously carried.

Resolution 97-0792(a), as amended, was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to reclassify from conservation to nonconservation and to offer for sale the following tax forfeited parcels now withheld from sale in conservation:

<u>File #</u>	<u>Applicant Name</u>	<u>Legal Description</u>	<u>Location</u>
97108	St. Louis County	That part of NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$ lying north of the center line of Amity Creek, Section 31, Township 51, Range 13. (10-2690-750)	One-half mile east of the intersection of Jean Duluth and Matin Road
97111	William Swanstrom	Lot 18, Block 5, Lyman Park Division (10-3130-970/partial)	North side of Lyman Street between Anson and Ceylon Avenues (Lincoln Park)
97112	Dan Nyquist	Lot 20, Block 70, Myers Rearrangement, Duluth Proper/Second Division (10-1130-390, 400)	East side of Piedmont Avenue between First and Second Streets (Lincoln Park)
97114	Raymond Merila	Lot 15, Auditor's Plat No. 19 (Morgan Park) (10-132-150)	North side of 89 <sup>th</sup> Avenue West east of Concord Street (Morgan Park)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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97115	Tim Chelstrom	Westerly half of NE¼ of NE¼ except the northerly 320 feet and that portion located southerly of the Becks Road easement, Section 4, T48N R15W (10-27-30-340) and the easterly 330 feet of NW¼ of NE¼ except that portion located northerly of the DM&IR right of way, Section 4, T48N R15W (10-2730-350/partial)	North side of Becks Road west of 110 <sup>th</sup> Avenue West (Gary New-Duluth)
97116	St. Louis Co. land department	South half of Lot 20 and Lot 21, Block 106, Duluth Proper Second Division, Meyers Rearrangement of Blocks 105, 106, 127, 128 and 142 (10-1170-510, 520)	East side of 19th Avenue West between Third and Fourth Street (Lincoln Park/West End)
97117	Mike Ambler	Southerly 100 feet of Lots 50-54, Block 7, Norton's Steel Plant Division (10-3540-2420, 2430, 2440, 2450, 2460)	North side of Crestline Court between 98th Avenue West and Commonwealth Avenue (Gary-New Duluth)
97118	St. Louis County land department	Westerly 1.5 feet of southerly 58 feet of Lot 433 and easterly 24.5 feet of southerly 58 feet of Lot 435, Block 80, Duluth Proper, Second Division (10-1140-2772)	Upper side of First Street between 27th and 28th Avenue West (Lincoln Park/West End)

BE IT FURTHER RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to free-convey to the city of Duluth certain parcels completing ownership to Janette Pollay Park and creating public sites related to the Lake Superior Water Trail and Grassy Bay Wildlife area:

<u>File #</u>	<u>Applicant Name</u>	<u>Legal Description</u>	<u>Location</u>
97108	St. Louis County Land Department	That part of north half of NW¼ lying north of the center line of Amity Creek and within 220 feet of the west line of said NW¼ of NE¼, Section 31, Township 51, Range 13 (10-2690-720)	One-half mile east of the intersection of Jean Duluth and Martin Roads

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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97113	City of Duluth	1) Rearrangement of Auditors Plat of West Duluth outlots, Outlot M (10-0130-00230)	1) Grassy Point area south of Burlington Northern tracks (West Duluth)
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Resolution 97-0792(a) was unanimously adopted.  
Approved September 22, 1997  
GARY L. DOTY, Mayor

- - -

Councilor Prettner Solon moved to table Resolution 97-0792(b) to allow time for Park Point residents to meet on the issue, which motion was seconded and unanimously carried.

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of 49th Avenue East between Norwood and Glendale Streets legally described as: 49th Avenue East adjacent to Blocks 93, 94, 95 and 96, excepting the 16 foot wide alley easement connecting said block in Crosley Park Addition; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its September 9, 1997, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of 49th Avenue East between Norwood Street and Glendale Street described above, reserving a 20 foot wide alley easement over said vacated portion of 49th Avenue East, ten feet either side of the center line thereof and as more particularly described on Public Document No. 97-0922-19.

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

Resolution 97-0795 was unanimously adopted.  
Approved September 22, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of 53rd Avenue East between Juniata and Glenwood Streets, legally described as: 53rd Avenue East adjacent to Blocks 33, 34, 41 and 42, excepting the 16 foot wide alley easement connecting said blocks, Crosley Park Addition; and

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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WHEREAS, the city planning commission approved unanimously the vacation petition at its September 9, 1997, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of described above and as more particularly described on Public Document No. 97-0922-20; and retaining a 20 foot wide utility and pedestrian easement ten feet either side of a line located 15 feet west of the center line of 53rd Avenue East.

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

Resolution 97-0796 was unanimously adopted.

Approved September 22, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0798, by Councilor Prettner Solon, granting a special use permit for a community unit plan and water resource management ordinance variances to Dovolis, Johnson & Ruggieri, Inc., and J. Michael Construction, Inc., for property located at 3400 London Road and 100 North 32nd Avenue East, was introduced for discussion.

Councilor Prettner Solon stated she is concerned that the legal requirements to consider this issue within the required 60 days will not have been met and that unless an extension is granted, the issue will be approved by default. She noted that the planning commission is scheduled to meet on Wednesday to approve a 60 day extension for further consideration of the issue and she encouraged the council to table the resolution until after that meeting.

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

Marta Maddy expressed her concern that this issue will be approved by default even though it was turned down by the planning commission twice.

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

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Resolution 97-0782, by Councilor Keenan, supporting a federal outstanding national water resource designation for Lake Superior, was introduced for discussion.

Councilor Keenan moved to table the resolution so the environmental advisory council can review it, which motion was seconded and unanimously carried.

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute a Minnesota trail assistance program agreement with the Minnesota department of natural resources in the sum of \$16,500 for the maintenance of the Duluth snowmobile trails for the 1997-1998 season; said agreement to be in the form of Public Document No. 97-0922-21(a), on file with the city clerk; the funds therefrom to be deposited in the General Fund 100-500-1920-4233.

RESOLVED FURTHER, that the city is hereby authorized to pay up to \$16,500 to the Duluth Area Association of Snowmobile Clubs for snowmobile grooming and maintenance during the 1997-1998 season, in accordance with the schedule of allowable costs which is filed with the city clerk as Public Document No. 97-0922-21(b), payable from the General Fund 100-500-1920-4233.

Resolution 97-0784 was unanimously adopted.

Approved September 22, 1997

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR KEENAN:

RESOLVED, that Duluth Superior Blacktop, Inc., be and hereby is awarded a contract for paving golf cart paths at Enger Park Golf Course for the parks and recreation department in accordance with specifications on its low specification bid of \$11,166.08, terms net 30, FOB job site, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object 5530.

Resolution 97-0790 was unanimously adopted.

Approved September 22, 1997

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the federal bureau of prisons, which is filed with the city clerk as Public Document No. 97-0922-22, for the furnishing of fire protection by the Duluth fire department for the Duluth Federal Prison Camp.

RESOLVED FURTHER, that all payments made to the city under this agreement shall be credited to the general fund.

Resolution 97-0768 was unanimously adopted.

Approved September 22, 1997

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to accept JTPA eight percent education coordination allocation funds of \$11,140 from the Minnesota state board of colleges and universities, available from July 1, 1997, through March 31, 2000, to provide adult basic education instruction for JTPA eligible participants. A copy of this grant agreement shall be on file in the city clerk's office as Public Document No. 97-0922-23.

FURTHER RESOLVED, that monies received under this grant agreement shall be deposited in Fund 268, Budget Item 6203.

Resolution 97-0776 was unanimously adopted.

Approved September 22, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR YOUNG:

WHEREAS, by resolution of intent numbered 97-0593 approved on the 14th of July, 1997, the council did request the administration to prepare plans and specifications for the extension of a six inch water main and a two inch gas main in 65th Avenue West from Roosevelt Street to 130 feet northerly; and

WHEREAS, the party proposed to be assessed for this project has agreed to waive his rights to a hearing and to waive the 60 day waiting period as provided by Section 62 of the City Charter.

NOW, THEREFORE, BE IT RESOLVED, that said extension be constructed; that the estimated total cost of said improvements as estimated by the department of water and gas engineers is \$11,000, payable from the public utility fund; that the cost of said project be paid by special assessment against the land and premises specially benefited, which land and premises are described in the petition filed herein; and which description is hereby incorporated herein by reference to said petition; that those assessed be permitted to pay said installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment will satisfy all the



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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requirements of Section 60 of the Charter of the city of Duluth.

Resolution 97-0777 was unanimously adopted.

Approved September 22, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the city of Duluth hereby accepts a street and utility easement hereinafter described from Melvin G. Ryttyie at no cost to the city:

A permanent easement for street and utility purposes over, under, across and along the following described parcel of land located in the city of Duluth, county of St. Louis, state of Minnesota:

The northerly 33 feet of easterly 300 feet of the S $\frac{1}{2}$  of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 30, T 50 N, R 14 W.

Resolution 97-0778 was unanimously adopted.

Approved September 22, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and the Minnesota department of transportation for the construction of a retaining wall to stabilize the slope along the Lakewalk between Ninth Avenue East and Tenth Avenue East; said agreement filed as Public Document No. 97-0922-24. The city's costs in this project, which are estimated to be \$152,418.50, are payable out of Capital Improvement Fund 450, Agency 015, Org. 1997.

Resolution 97-0781 was unanimously adopted.

Approved September 22, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute a grant agreement with the Minnesota department of trade and economic development under which the city will receive up to \$399,975 for the contamination cleanup of Duluth Dumpsite No. 1.

Resolution 97-0783 was unanimously adopted.

Approved September 22, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and the Western Lake Superior Sanitary District for the construction of a retaining wall to stabilize the slope along the Lakewalk between Ninth Avenue East and Tenth Avenue East for a consideration of \$100,000 to be paid by the Western Lake Superior Sanitary District.

Resolution 97-0785 was unanimously adopted.

Approved September 22, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement, filed as Public Document No. 97-0922-25, between the city of Duluth and the Minnesota department of transportation for the revision of the lighting systems at Lake Place for an estimated cost to the city of \$47,500, to be paid from P.I. Fund 411, Agency 035, Org. 2120, Obj. 5530.

Resolution 97-0787 was unanimously adopted.  
Approved September 22, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 97-0616 to Levine and Son, Inc., for the 1997 city-wide storm sewer patching program, be amended to increase the amount by \$40,000 for a new total of \$110,023, payable out of Permanent Improvement Fund 411, Department/Agency 035, Organization 2123, Object 5530.

Resolution 97-0793 was unanimously adopted.  
Approved September 22, 1997  
GARY L. DOTY, Mayor

- - -

Resolution 97-0786, by Councilor Hales, authorizing execution of a subgrant agreement with Minnesota Program Development, Inc., relating to implementation of the community policing to combat domestic violence grant, was introduced for discussion.

Councilor Hales questioned what this grant is intended to accomplish and whether it can be verified that the handbook referenced in the agreement is finished.

Responding to Councilor Hogg, City Attorney Dinan explained that this agreement is only an extension of the time period for one of the positions created by the original grant. He explained that the scope of the duties includes gathering information from various agencies that work with domestic abuse to better coordinate information.

Resolution 97-0786 was adopted as follows:

BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized to execute a subgrant agreement with Minnesota Program Development, Inc., relating to the community policing to combat domestic violence grant, which agreement shall be substantially in the form of Public Document No. 97-0922-27, on file with the office of the city clerk, at a cost to the city of not to exceed \$17,438, which shall be paid from Fund 100-200-2438-5310.

Resolution 97-0786 was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved September 22, 1997  
GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 8:25 p.m.

JEFFREY J. COX, City Clerk

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, October 14, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: Councilor Rapaich -- 1

- - -

The minutes of council meetings held on February 25, March 17 and 24, 1997, were approved upon a unanimous vote.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-1014-01 Minnesota state auditor submitting management and compliance report of Duluth economic development authority for the year ended December 31, 1996. -- Received

97-1014-29 Kathleen Dwan Rabun submitting survey sheet pertaining to the proposed designation of Lakeview Drive between Arrowhead and Vermilion Roads as a roadway for two-way traffic (97-0828R). -- Received

97-1014-30 Evelyn Frazier submitting letter pertaining to the proposed Holiday Center skywalk vacation (97-0819R) and use agreement (97-0833R). -- Received

97-1014-28 James R. Marshall submitting communication pertaining to the proposed reclassification and free conveyance of a tax forfeit parcel (97-0792(b)). -- Received

97-1014-25 The following submitting communications pertaining to the proposed Glensheen Estates project (97-0798R): (a) Anthony S. Downs; (b) Bruce A. Esse; (c) Jerome E. Kwako; (d) Jill Lyman; (e) Robert Lyman; (f) Robert E. McGeachie. -- Received

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**REPORTS OF OFFICERS**

97-1014-02 Assessor submitting:

(a) Letters of sufficiency pertaining to petitions to vacate:

(1) Pedestrian walkway in portions of the Holiday Mall property;

(2) Silverberry Circle, in the plat of Maple Ridge First Addition, along with all easements, utility and otherwise in all of Block 5 and on Lots 1 and 3, Block 4, all within Maple Ridge First Addition. -- Received

(b) Affidavits of mailing of notice of public hearing by the special assessment board on October 21, 1997, at:

(1) 5:00 p.m. regarding proposed improvement of Denney Drive from Skyline Parkway to approximately 792 feet northerly;

(2) 4:30 p.m. regarding proposed improvement of Second Street Alley from 14th to 15th Avenue East. -- Clerk

97-1014-03 Building official submitting appeal for the denial of a request to relax the side yard setback for a corner lot from 20 feet to 10 feet and to relax the rear yard setback from five feet to three feet for the construction of a new 26 foot by 24 foot detached garage on property located at 1907 Columbus Avenue (Johnson). -- Committee 2 (Planning)

97-1014-04 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses from: (a) Order of AHEPA, Duluth Chapter No. 267 (bingo) on November 23, 1997; (b) St. Mary's Foundation (raffles) on December 31, 1997. -- Received

97-1014-05 Community development and housing division submitting HRA housing rehabilitation report for July, 1997. -- Received

97-1014-06 Purchasing agent submitting emergency purchase order for soccer fields turf establishment awarded to Kerrick Sod Company in the amount of \$55,633.55. -- Received

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### REPORTS OF BOARDS AND COMMISSIONS

97-1014-07 Building appeal board minutes of: (a) August 13; (b) September 10, 1997, meetings. -- Received

97-1014-08 Civil service board minutes of August 5, 1997, meeting. -- Received

97-1014-09 Duluth airport authority minutes of August 19, 1997, meeting. -- Received

97-1014-10 Heritage preservation commission minutes of June 11, 1997, meeting. -- Received

97-1014-11 Planning commission minutes of August 12, 1997, meeting. -- Received

97-1014-12 Sanitary sewer board of WLSSD minutes of: (a) September 8; (b) September 29, 1997, meetings.. -- Received

97-1014-13 Seaway Port authority of Duluth: (a) Minutes of: (1) June 23; (2) July 28, 1997, meetings; (b) Balance sheet and income statement for period ending June 30, 1997; (c) Budget format. -- Received

97-1014-14 Tree commission minutes of September 8, 1997, meeting. -- Received

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### RESOLUTIONS TABLED

Councilor Young moved to remove Resolution 97-0720, authorizing execution of an agreement with Minnesota Power and the David M. Griffith and Associates for professional services to study the feasibility of combining meter-related and billing and collection functions of the city water and gas department and Minnesota Power and to study the feasibility of automated meter reading systems for the utilities, from the table, which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Hales, Keenan, Prettnner Solon, Talarico, Young and President Hardesty -- 7

Nays: Councilor Hogg -- 1

Absent: Councilor Rapaich -- 1

Councilor Hogg stated he does not feel that enough information has been presented to vote on the resolution. He said he likes the idea of reducing city costs and investigating ways to save the city money; but even with seven proposals and a committee meeting, he did not get to speak with the city employees who came up with an alternate plan and that is the information he is looking for. Councilor Hogg said he would like to retable the resolution until the council has received this information. He felt the administration had intimidated employees by not letting them speak and by the memo that Administrative Assistant Nollenberger had sent to the employees.

Mr. Nollenberger replied that he disagrees with Councilor Hogg as it is a principal and ethical issue. He continued saying that the council needs to go back to the issue and stick to that.

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

Tony Orman reviewed that much of the information that the study is to obtain has already been done by water and gas employees, and that there was a previous study done in 1995 costing \$50,000 that found that combining services was not acceptable. He felt the administration was wrong by not allowing the water and gas employees to speak. He urged councilors to vote against the resolution.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Responding to Councilor Keenan, Mr. Nollenberger stated that both Minnesota Power and the administration think that an in house study would not provide the objectivity required and be a waste of resources, so no further study will be done.

Councilor Bohlmann felt that privatization of utilities will only benefit shareholders and further study is not necessary.

Councilor Keenan moved to table the resolution for more information, which motion failed upon the following vote:

Yeas: Councilors Hogg, Keenan, Prettner Solon, Talarico -- 4

Nays: Councilors Bohlmann, Hales, Young and President Hardesty -- 4

Absent: Councilor Rapaich -- 1

Resolution 97-0720 failed upon the following vote (Public Document No. 97-1014-26):

Yeas: None -- 0

Nays: Councilors Bohlmann, Hales, Hogg, Keenan, Prettner Solon, Talarico, Young and President Hardesty -- 8

Absent: Councilor Rapaich -- 1

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At this time, 8:00 p.m., President Hardesty called the public hearing regarding FY98 CDBG and annual action plan to order (Public Document No. 97-1014-27).

- - -

At this time, 9:45 p.m., President Hardesty adjourned the public hearing and the regular order of business was resumed.

- - -

Councilor Prettner Solon moved to suspend the rules to consider Resolution 97-0819, vacating skywalk easements in the Holiday Center (Lyric Block), and Resolution 97-0833, authorizing use agreement with Lyric Block Development Corporation and J.J.M. Partnership related to the contract premises in the Holiday Mall, at this time to hear from speakers, which motion was seconded and unanimously carried.

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

Davia Swenson, representing several Duluth students, stated they object to the privatization of the skywalk and requested that their presence be noted for the record as being opposed to these resolutions.

Councilor Talarico invited the speakers to attend the November 3 public hearing on this issue.

Jim Van Dell stated that it is wrong to privatize a public area just because 12 to 15 people are being nuisances.

Councilor Prettner Solon moved to retable the resolutions for the November 3 committee meeting and public hearing, which motion was seconded and unanimously carried.

- - -

**MOTIONS AND RESOLUTIONS**

The following entitled resolution was filed prior to October 14, 1997, in accordance with Section 11 of the City Charter:

BY COUNCILOR YOUNG

97-0840 - RESOLUTION AWARDDING CONTRACT TO UTILITY SYSTEMS OF AMERICA FOR CONSTRUCTION OF WATER MAIN AND SANITARY SEWER AT 87TH AVENUE WEST AND CONSTRUCTION OF WATER MAIN AND GAS MAIN AT 65TH AVENUE WEST IN ACCORDANCE WITH SPECIFICATIONS ON ITS LOW SPECIFICATION BID OF \$39,553.50, \$36,389.22 PAYABLE OUT OF WATER FUND 510, DEPT./AGENCY 900, ORG. 0505, OBJ. 5533 AND \$3,164.28 PAYABLE OUT OF GAS FUND 520, DEPT./AGENCY 900, ORG. 0505, OBJ.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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5533.

- - -

BY COUNCILOR YOUNG:

BE IT RESOLVED, that the proper city officials are authorized to receive payments to Arrowhead Cost Recovery Association and disburse the funds to the members as directed by the co-chairs in accordance with the participation agreement.

Resolution 97-0804 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR YOUNG:

RESOLVED, that Century Fence Company be and hereby is awarded a contract for furnishing, delivering and installing new fencing for Stowe, Portman and Duluth Heights ballfields for the parks and recreation department in accordance with specifications on its low specification bid of \$31,160, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1997, Object C705.

Resolution 97-0806 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR YOUNG:

RESOLVED, that Resolution 97-0114 to Praxair Distribution, Inc., for furnishing welding and industrial gas supplies, be amended to increase the amount by \$2,023.50 for a new total of \$7,573.50, payable out of various funds, various dept./agencies, various organizations and various objects.

Resolution 97-0809 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR YOUNG:

RESOLVED, that Simon Ladder Towers, Inc., be and hereby is awarded a contract for furnishing and delivering one electrical ring for No. 4 Quint fire truck (ladder) for the fleet service division in accordance with specifications on its low specification bid of \$6,326.10, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 97-0823 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR YOUNG:

RESOLVED, that Contract Tile and Carpet, Inc., be and hereby is awarded a contract for furnishing and installing carpeting in the fourth floor reception room, City Hall, in accordance with specifications on its low specification bid of \$5,300, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 700, Organization 1418, Object I702.

Resolution 97-0824 was unanimously adopted.

Approved October 14, 1997

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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GARY L. DOTY, Mayor

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BY COUNCILOR YOUNG:

RESOLVED, that the city is hereby authorized to execute an agreement with the Epic Life Insurance Company (Epic) under which Epic will provide administrative services to the city group health plan during calendar year 1998 for a fee of \$9.66 per covered employee per month, for a total estimated cost of \$235,318, which shall be paid from the group health fund.

RESOLVED FURTHER, that the city is hereby authorized to execute an agreement with Epic under which Epic will provide stop loss insurance to the city group health plan during calendar year 1998 for a premium of \$12.86 per covered employee per month, for a total estimated cost of \$313,269, which shall be paid from the group health fund.

Resolution 97-0826 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR YOUNG:

RESOLVED, that Reuben Johnson and Son, Inc., be and hereby is awarded a contract for construction of the lakewalk slope stabilization for the public works department in accordance with specifications on its low specification bid of \$394,970.50, terms net 30, FOB job site, \$147,485.25 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1997, Object C715; \$147,485.25 payable from Minnesota department of transportation and \$100,000 payable from WLSSD.

Resolution 97-0832 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR YOUNG:

RESOLVED, that pursuant to Minnesota Statutes 204A.21, the following persons are hereby appointed as election judges in the respective precincts for the municipal and school board general election on November 4, 1997, as listed in Public Document 97-1014-15.

RESOLVED FURTHER, that pursuant to Minnesota Statute, 204B.31(d), election judge chairmen shall be compensated at the rate of \$6 per hour and nonchairman election judges shall be compensated at the rate of \$5.25 per hour. In addition, election judges carrying supply returns shall be compensated for mileage at the rate of \$.315 per mile. Payable from General Fund 015-1512-5441.

Resolution 97-0834 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

TECHNICAL DESIGN ADVISORY COMMITTEE - DWMX-D

Jan Sivertson (area) for a term expiring May 31, 1998, replacing Thomas Benson.

Resolution 97-0780 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, pursuant to Resolution No. 95-0383 adopted on May 1, 1995, the city of Duluth (the city), entered into an agreement with Spirit Valley Citizens Neighborhood Development Association, Inc., Duluth, Minnesota (SVCNDA), in which SVCNDA agreed to operate the West Duluth housing rehabilitation program project (the agreement), payable from the 1995 Federal Program Fund 263 - community development - SVCNDA housing rehabilitation program project Account 6354; and

WHEREAS, Amendment No. 1 to the agreement was authorized by city council Resolution 96-1017, passed on December 2, 1996; and

WHEREAS, both parties desire to further amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 2, a copy of which is on file in the office of the city clerk as Public Document No. 97-1014-16, to the agreement with SVCNDA which extends the term of the agreement to December 31, 1998, with no change in compensation under terms of the agreement.

Resolution 97-0808 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Arrowhead Development has filed a sufficient petition with the city clerk requesting the vacation of street and utility easements legally described as: An easement for Silverberry Circle lying northerly of Hickory Street, all utility easements in and common to Lots 1 & 3, Block 4 and all utility easements in Block 5, all in the plat of Maple Ridge First Addition; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its meeting on September 24, 1997.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the street and utility easements described above and as more particularly described on Public Document No. 97-1014-17.

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

Resolution 97-0815 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city council did, on April 14, 1997, adopt Resolution No. 97-0282, granting to Duluth/Superior Cellular, Inc., a special use permit for the operation of a communication tower and equipment building; and

WHEREAS, Duluth/Superior Cellular Inc., has submitted to the city council a request for an amendment to said special use permit to increase the tower height from 199 feet to 265 feet on property described as Lots 65 and 67, Block 135, Duluth Proper Third Division and located at the southwest corner of Fourth Avenue West and Ninth Street; and said permit application was duly



referred to the city planning commission for a study, report and public hearing and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that the special use permit granted to Duluth/Superior Cellular Inc., pursuant to Resolution No. 97-0282 is hereby amended to allow for a communication tower height of 265 feet and ancillary equipment building located on the above described property at the southwest corner of Fourth Avenue West and Ninth Street on the condition that tower and equipment building be constructed and maintained in accordance with plans and drawings identified as Public Document No. 97-1014-18.

Resolution 97-0816 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

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

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of Bay Manufacturing, Inc.; and

WHEREAS, it is consistent with the purpose of this governing unit to encourage employment and increase tax base.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports this application for funding on behalf of Bay Manufacturing, Inc.

Resolution 97-0835 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the city is hereby authorized to accept a grant in the amount of \$10,000 from Consolidated Papers Foundation, Inc., to the Duluth public library to purchase reference and nonfiction materials for the library.

RESOLVED FURTHER, that the city's library director and treasurer are authorized to execute the documents necessary to accept this grant on behalf of the city.

RESOLVED FURTHER, that monies accepted pursuant to this resolution shall be deposited in General Fund 100, Agency 300, Organization 1704-grants.

Resolution 97-0825 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

RESOLVED, that the city of Duluth does hereby ratify that contract dated January 18, 1995, a copy of which is on file in the office of the city clerk as Public Document No. 97-1014-19(a), with the Duluth housing and redevelopment authority and Minnesota state housing and finance agency to provide case management services to participants in its rental assistance for families (RAFs) program.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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FURTHER RESOLVED, that the proper city officials are authorized to enter into an amendment of said contract, a copy of which is on file in the office of the city clerk as Public Document No. 97-1014-19(b), extending the term thereof through November 30, 2000.

Resolution 97-0805 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

RESOLVED, that the proper city officers are hereby authorized to execute a Duluth area family services collaborative interagency agreement, which agreement is on file in the office of the city clerk as Public Document No. 97-1014-20.

RESOLVED FURTHER, that the city is authorized to expend \$12,500 in direct funding of the Duluth area family services collaborative during 1997 and 1998, which funds shall be paid from the General Fund 100-015-1514-family services collaborative.

Resolution 97-0827 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR YOUNG:

RESOLVED, that the proper city officials are hereby authorized to execute an amendment to agreement for management services with the Duluth steam cooperative association, which amendment is on file in the office of the city clerk as Public Document No. 97-1014-21.

Resolution 97-0813 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR YOUNG:

RESOLVED, that Groebner and Associates, Inc., be and hereby is awarded a contract for furnishing and delivering seven mercury electronic correctors for the water and gas department in accordance with specifications on its low specification bid of \$22,476.83, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 97-0821 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, it appears that it may be necessary to construct a permanent alley in Second Street Alley from 14th to 15th Avenue East (City Job No. 9014RS97).

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of this council to cause this improvement to be made, provided that further information demonstrated that the improvement should be made.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will further direct procedures prescribed by Section 62 of the Charter.

Resolution 97-0799 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-0863 to Northland Bridge of Duluth, Inc., for construction repair of Chester Creek bridge at Skyline Parkway, be amended to increase the amount by \$179,823.22 for a new total of \$395,447.52, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2151, Object 5530. Funding increase is approved for 80 percent federal and 20 percent municipal state aid funds.

Resolution 97-0807 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers hereby authorize Amendment No. 1 to Agreement No. 17903 with Swan & Associates, Inc., for the sum of not to exceed \$2,400, from General Fund 100, Agency 700, Org. 1418, Obj. 1424, for providing certain professional environmental services to the city of Duluth in connection with City Hall water pipe replacement, Phase II, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 97-1014-22.

Resolution 97-0811 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized and directed to execute six railroad crossing permits and two railroad crossing agreements, filed as Public Documents Nos. 97-1014-23(a-g), between the city of Duluth and the Burlington Northern and Santa Fe Railroad Company for the reconstruction of Railroad Street between Garfield Avenue and Eighth Avenue West for a cost of \$66,592, to be paid from the Special Assessment Fund 810 and reimbursed from municipal state aid.

Resolution 97-0812 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, by Resolution 97-0734 the city council requested the commissioner of transportation grant the city of Duluth design variances on the proposed reconstruction of a stone retaining wall on Skyline Parkway allowing a reduction of the urban state aid standards from the required 50 km/h design to a 30 km/h design and a required 3 m with maximum 4:1 recovery area to a 0.90 m with maximum 4:1 inslope and a required lane width of 3.6 m to a 3.4 m design; and

WHEREAS, the commissioner has granted the city a variance from Minnesota Rule, Section 8820.9931, as to allow a 30 km/h design speed in lieu of the required 50 km/h design speed and a recovery area of 0.90 m in lieu of the required 3.0 m recovery area and a lane width of 3.4 m in lieu of the required 3.6 m lane width, conditioned upon receipt by the commissioner of a resolution of the city council indemnifying the state for granting the said variance.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby agrees to indemnify, save and hold harmless the state of Minnesota and its agents and employees of and from any and all claims, demands, actions or causes of actions arising out of by reason of, the reconstruction of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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a stone retaining wall on Skyline Parkway (municipal state aid street No. 113), approximately 0.615 km east of the junction of CSAH 91 (Haines Road), in the city of Duluth in any other manner than in accordance with Minnesota Rules section 8820.9931 and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim of whatsoever character arising as a result of the granting of the variance.

Resolution 97-0814 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the city of Duluth hereby accepts a utility easement hereinafter described from Leif Brush and Gloria D. Brush at no cost to the city.

A 20.00 foot utility easement over, under and across that part of Block 21, Rearrangement of part of East Duluth and of First Addition to East Duluth and that part of the S $\frac{1}{2}$  of Section 13, Township 50 North, Range 14 West. The center line of said easement is described as follows:

Commencing at the most southerly corner of Block 40, Harrison's Division of Duluth, thence northeasterly, along the southeasterly line of said Block 40, a distance of 56.55 feet; thence deflect 72°-25'-09" to the right in a southeasterly direction a distance of 44 feet, more or less, to the intersection with the easterly line of Jefferson Street and said intersection being the point of beginning of the center line to be described; thence continue, along the last described line, a distance of 47 feet, more or less, to the southeasterly line of said Block 21, and said line there terminating.

Resolution 97-0820 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that various contractors be and hereby are awarded a contract for furnishing and delivering snow train equipment rental on an as needed basis for the street and park maintenance division in accordance with specifications for an estimated amount of \$100,000, terms net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5415.

Resolution 97-0822 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Great Western Corporation be and hereby is awarded a contract for reconstruction of lift station No. 28 for the sewer division in accordance with specifications on its low specification bid of \$110,022.80, terms net 30, FOB job site, payable out of Sewer Construction Fund 531, Dept./Agency 500, Object 5532.

Resolution 97-0829 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the city council hereby authorizes the proper city officials to enter into an agreement substantially in conformance with Public Document No. 97-1014-24, which agreement

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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will provide for the lease of approximately 1,284 square feet of space on the lower level of Duluth City Hall, 411 West First Street, to Sherry's Courtyard Cafe, for use as a City Hall coffee shop.

Resolution 97-0830 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Moore Business Forms, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 5,000 pads of parking violation tickets for the police department in accordance with specifications on its low specification bid of \$6,924.75, terms net 30, FOB destination, \$2,967.75 payable out of General Fund 100, Dept./Agency 200, Organization 1620, Object 5355; \$3,957 payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5355.

Resolution 97-0810 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the Minnesota department of public safety, community oriented policing overtime program to reimburse the police department for the salaries and benefits of officers working on need identified overtime projects.

BE IT FURTHER RESOLVED, that the proper city officers are hereby authorized to execute such agreements as necessary to implement the project on behalf of the Duluth police department. All revenue to be deposited in General Fund 100, Dept. 200, Org. 1620, Object 4230.

Resolution 97-0818 was unanimously adopted.

Approved October 14, 1997

GARY L. DOTY, Mayor

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Resolution 97-0828, by Councilor Hales, designating Lakeview Drive between Arrowhead Road and Vermilion Road as a roadway for two way traffic, was introduced for discussion.

Councilor Keenan stated that another community meeting should be held to hear from citizens instead of using the survey that was sent out to the neighborhood. He reviewed that the survey results tell him that the residents want the one way street, not a two way as the resolution states. He also said that the administration is willing to send staff to the meeting.

Councilor Hogg stated that as he reads the survey results, most people want a two way road and bridge. He reviewed that the neighborhood asked the council to solve the problem of cut through traffic, so the streets were changed to a one way. Councilor Hogg continued by saying that the neighborhood does not think it is working and want to change it back. Councilor Hogg moved to amend the resolution by adding the following paragraph:

"RESOLVED FURTHER, that the bridge on Vermilion Road east of St. Marie Street shall remain two way," which motion was seconded.

President Hardesty stated she supports having the neighborhood involved in this decision since they were involved in Phase I of the project and she cannot support the amendment.

Councilor Keenan stated he would not support the amendment until a neighborhood meeting is called to discuss the survey.

Mr. Nollenberger reviewed with the council that the engineering division's recommendation relating to the bridge, based solely as a traffic engineering issue, is to be a one way bridge. He

continued by saying that after the survey results came back and it showed that the neighborhood wanted a two way bridge, the engineering division staff felt the neighborhood should decide this matter.

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

Yeas: Councilors Bohlmann, Hales and Hogg -- 3

Nays: Councilor Keenan, Prettner Solon, Talarico, Young and President Hardesty -- 5

Absent: Councilor Rapaich -- 1

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

Steve Valiant stated he is concerned about the safety of Lakeview Drive and the access to his property and would like to see it designated as a two way street.

Kathleen Dwan Rabun stated that she does not want the neighborhood to become a "gated" community and she does not want privatization of public streets. She spoke in support of a two way street, saying that traffic would be slower.

Karl Wasson stated that the idea of a survey was better than a meeting, since not everyone can attend a meeting or may be too intimidated to speak. He requested the council to review the survey results, and that holding more meetings seems like a stall tactic to him.

President Hardesty stated that this has been a two year process and that the survey did not address the larger issue of the neighborhood traffic pattern at the other end of the neighborhood. She felt that the neighborhood needs to get together for a consensus of the traffic pattern for their streets.

Allen Rabun stated he is concerned with the safety of children waiting for buses and people walking on the road if the street remains a one way street. He said that cars exceed the speed limit now because they know there will not be any traffic coming from the other way.

Mark Weber stated that there has been two years of planning on this project which resulted in a one way traffic pattern going out from Vermilion Road and it should stay that way. He questioned why the council would change the policy after a two year planning process.

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

Councilor Hogg moved to consider the amendment, which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Prettner Solon, Talarico and Young -- 6

Nays: Councilors Keenan and President Hardesty -- 2

Absent: Councilor Rapaich -- 1

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

Yeas: Councilors Keenan, Young and President Hardesty -- 3

Nays: Councilors Bohlmann, Hales, Hogg, Prettner Solon and Talarico -- 5

Absent: Councilor Rapaich -- 1

Resolution 97-0828, as amended, was adopted as follows:

BY COUNCILOR HALES:

BE IT RESOLVED, by the city council of the city of Duluth, that Lakeview Drive between Arrowhead Road and Vermilion Road is hereby designated as a roadway for two-way traffic and the one-way southbound designation established by Resolution 95-0395, effective May 1, 1995, is hereby rescinded as it applied to this 0.30 mile of roadway.

RESOLVED FURTHER, that the bridge on Vermilion Road east of St. Marie Street shall remain two-way.

Resolution 97-0828, as amended, was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Prettner Solon, Talarico and Young -- 6

Nays: Councilors Keenan and President Hardesty -- 2

Absent: Councilor Rapaich -- 1

Approved October 14, 1997

GARY L. DOTY, Mayor

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### INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR PRETTNER SOLON

97-029 - AN ORDINANCE AUTHORIZING THE GRANTING OF AN EASEMENT OVER CITY-OWNED PROPERTY IN THE SOUTHWEST QUARTER OF THE SECTION 5, TOWNSHIP 48, RANGE 15 WEST, ST. LOUIS COUNTY, MINNESOTA, TO JOHN DESMEDT AND GLORIA DESMEDT, HUSBAND AND WIFE.

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BY COUNCILOR PRETTNER SOLON

97-031 - AN ORDINANCE GRANTING CONCURRENT USE PERMIT FOR A PRIVATE UNDERGROUND UTILITY LYING EAST OF EIGHTH STREET IN FOURTH ALLEY FOR DULUTH FAMILY PRACTICE CENTER.

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BY COUNCILOR PRETTNER SOLON

97-032 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 4 AND 5, BLOCK 23, REARRANGEMENT OF HUNTERS' GRASSY POINT ADDITION TO DULUTH, EXCEPT PORTION TAKEN FOR TRAIL PURPOSES TO HABITAT FOR HUMANITY, AT NO COST.

- - -

BY COUNCILOR PRETTNER SOLON

97-034 - AN ORDINANCE INCREASING THE NUMBER OF MEMBERS ON THE BOARD OF ZONING APPEALS; AMENDING SECTIONS 50-45 AND 50-46 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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BY COUNCILOR TALARICO

97-028 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOT 9, WEST SECOND STREET, DULUTH PROPER FIRST DIVISION, EXCEPT THE NORTHERLY 30 FEET THEREOF, TO THE DULUTH TEACHER'S CREDIT UNION FOR CONSIDERATION OF \$22,000, PAYABLE TO GENERAL FUND 100, AGENCY 700, ORG. 1418, OBJ. 4640.

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BY COUNCILOR TALARICO

97-030 - AN ORDINANCE PERTAINING TO THE REMOVAL OF SNOW FROM PUBLIC SIDEWALKS WITHIN THE CITY; AMENDING SECTIONS 45-56, 45-57, 45-59, 45-61 AND 45-62, AND REPEALING SECTIONS 45-58, 45-60, 45-63, 45-64, 45-65, 45-66, 45-67, 45-68, 45-69, 45-70, 45-71 AND 45-72 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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The meeting was adjourned at 11:00 p.m.

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

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, October 20, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-1020-03 Marta and Michael Maddy submitting communication pertaining to the proposed Glensheen Estates project (97-0798R). -- Received

97-1020-01 The following submitting communications pertaining to CDBG funding (97-0836R and 97-033-O): (a) Duluth Community Action Program, Inc.; (b) East Hillside/Endion Neighborhood Coalition: (1) Identifying three distinct projects as priorities; (2) Stating nonsupport to further housing development in the East Hillside/Endion neighborhood by Center City Housing Corporation; (c) Larry Sundberg. -- Received

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**REPORTS OF OFFICERS**

97-1020-02 Community development and housing division submitting 1998 CDBG program summary sheets that reflect the October 7, 1997, CCAC recommendations. -- Received

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**MOTIONS AND RESOLUTIONS**

Resolution 97-0836, by Councilor Prettner Solon, approving the 1998 action plan portion of the consolidated plan, authorizing a request for HUD federal community development block grant (CDBG) funds, HUD HOME funds, and HUD emergency shelter grant program (ESG) funds for the 1998 program year as well as approving the reallocation of certain prior CDBG funds, was introduced for discussion.

Councilor Prettner Solon reviewed the citizen participation process used in submitting recommendations for CDBG funding to the council for approval. She noted the effort involved by various groups in determining these recommendations and encouraged councilors to approve them without amendment.

Responding to Councilor Hogg regarding his request to separate the issues for a committee meeting, Keith Hamre, community development and housing division manager, stated there is a deadline of November 15, 1997, for submittal of documentation to HUD.

Councilor Hogg stated he believes there is time to meet on the issues to make changes in the process. He moved to separate and table all issues of the resolution except that relating to approval to CDBG funding, which motion was seconded and failed upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg and Young -- 4

Nays: Councilors Keenan, Prettner Solon, Rapaich, Talarico and President Hardesty -- 5

Responding to councilors Hogg and Hales, Councilor Prettner Solon noted that the issue before the council this evening is the action plan for 1998 and there is no reason that the council should not go forward with approval of it. She stated that her voting on the 1998 plan this evening does not negate her commitment to look at the process to make changes for 1999.

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

Catherine Peterson, executive director for the Duluth community action program (DCAP), reviewed a letter (Public Document No. 97-1020-01(a)) regarding problems DCAP is experiencing



in meeting contract requirements contained in its agreement with the Minnesota department of children, families and learning to deliver the state's weatherization assistance program in the city.

Ron Morkved, president of the board of directors of DCAP, assured councilors that the board is totally supportive for the need for weatherization in the community; that the board will, under no condition, enter into a contract with the city of Duluth, or anybody else, if it does not have the ability to deliver the program under the terms of the contract; and that the board, staff and union are working diligently with the state to correct the problems that presently exist.

Responding to Councilor Hales, Mr. Morkved stated that DCAP desires to have funding allocated for its program; however, if the state does not allow continuance of the program, DCAP does not intend to accept the grant.

Responding to Councilor Rapaich, Ms. Peterson stated that the contracts that DCAP enters into with the city for CDBG funds do stipulate that DCAP have a contract with the state.

Grant Odegard, West Duluth Neighborhood Coalition, stated that a number of neighborhoods receive a fraction of the funding requested because the majority of the funds are allocated to housing programs. He noted that while housing programs are important, the funding directly affects only a few individuals. Mr. Odegard warned councilors that if they approve the program as recommended by the citywide citizens advisory committee (CCAC), their job of representing the neighborhoods will not be fulfilled.

Jack Grams requested that the recommendation for housing and redevelopment authority (HRA) housing rehabilitation be reduced and cited numerous instances when he believes the HRA has spent funding wastefully.

Responding to Mr. Grams' comments, Councilor Prettner Solon reminded councilors that besides being an agency for housing rehabilitation, the HRA is also a public housing agency and that CDBG funds are used only for purposes of housing rehabilitation.

Butch Williams, East Hillside/Endion Coalition, requested councilors to allocate funds to the specific projects requested by neighborhood groups.

John Hamil, 15th Avenue East residents, requested the council to spread the funding out equally among abutting property owners for street improvements.

Sandy Robinson, East Hillside/Endion Coalition, requested that letters concerning her neighborhood's proposal and the 15th Avenue East street improvement program be included with other correspondence in the 1998 action plan. She noted that she believes the proposal for 1998 is worthwhile and does not unfairly allocate too much funding because they have received so little in the past. Ms. Robinson continued that there was a shortage of rental housing in the 1980's but the problem no longer exists and she believes that excess funding should now go to the neighborhoods.

Councilor Hogg stated that documents that should be included with the action plan are the two letters of resignation from the CCAC, the letters submitted by Sandy Robinson, the CCAC hearing summary, the transcript of the city council public hearing and letters from the East Hillside Endion Coalition regarding street improvement assessments. He requested that a transcript of the committee meeting with the neighborhood advisory council (NAC) also be included.

Councilor Hogg moved to divide the resolution so that approval of the 1998 action plan portion of the consolidated plan can be voted on separately, which motion was seconded and discussed.

Councilor Keenan suggested amending the resolution to state that the action plan include the specific documents mentioned by Councilor Hogg instead of dividing the resolution.

Councilor Hogg stated that because of Mr. Hamre's comments regarding the deadline, he is not asking to table that portion of the resolution. He requested that councilors be courteous and give himself and other councilors an opportunity to vote on the issues separately.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Councilor Bohlmann stated that amending and approving the resolution without seeing the documents to be included is irresponsible.

Councilor Hogg's motion to divide the resolution failed upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg and Young -- 4

Nays: Councilors Keenan, Prettner Solon, Rapaich, Talarico and President Hardesty -- 5

Councilor Talarico moved to amend the resolution to add the proposed changes set forth in Councilor Hales' memo as received from the community development and housing division which amends the FY98 action plan, pages 2, 15 and 20, and incorporate the resignation letters, the letter regarding 15th Street assessment, the letters submitted by Sandy Robinson, the CCAC hearing summary and the transcripts of the city council public hearing and the committee meeting with the NAC, which motion was seconded and carried upon a unanimous vote.

Councilor Hales stated that the council has held numerous discussions regarding funding and that she believes funding recommendations for the neighborhoods are inadequate. She moved to further amend the resolution to change the amounts allocated and add new allocations as follows:

HOUSING PROJECTS

Item 6102, HRA housing rehabilitation programs, change "\$840,000" to "\$556,000";

Item 6103, Duluth CAP weatherization - regular, change "\$395,000" to "\$300,000";

PHYSICAL IMPROVEMENTS

add "Lower Chester Recreation Center" and allocate "\$85,000";

Item 6106, Blackmere Field project, change "\$16,000" to "\$75,000";

Item 6108, sidewalk safety program (West Duluth), change "\$1,000" to "\$20,000";

Item 6109, Lincoln Park restoration and rehabilitation, change "\$26,000" to "\$95,000";

Item 6112, Observation Hill Park, change "\$20,000" to "\$38,000";

Item 6113, sidewalk safety and residential access (Fifth Avenue West), change "\$1,000" to "\$12,000";

Item 6114, 88th Avenue West beautification project, change from "\$4,000" to "\$7,000";

Item 6115, Keene's Creek Park improvements, change "\$1,000" to "\$4,000";

add "Grant Recreation Center improvements" and allocate "\$50,000";

add "15th Avenue East assessment repayment" and allocate "\$70,000,"

which motion was seconded and discussed.

Councilor Keenan stated that because of the extensive changes proposed, he is not comfortable voting on the amendment until he can see it in writing.

Responding to Councilor Prettner Solon, City Attorney Dinan stated that if the council feels comfortable in voting on the amendment, there is nothing that precludes them from doing so.

Councilor Hales stated she does not believe in opening new accounts with \$1,000 balances. She noted that her amendments are supportive of various neighborhood requests. Councilor Hales said it is time to listen to the neighborhoods and begin making broad changes. She explained her reasons for reducing housing project allocations.

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At this time, 8:35 p.m., President Hardesty recessed the meeting so that Councilor Hales' amendment could be put in written form.

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At this time, 8:45 p.m., President Hardesty reconvened the meeting and discussion on Councilor Hales' amendment was resumed.

With regard to the addition of the 15th Avenue East assessment repayment allocation of \$70,000, Administrative Assistant Nollenberger pointed out that staff has been in touch with and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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has been advised by HUD that there is no legal way to include these assessments in the allocations.

Responding to Councilor Hogg, Mr. Nollenberger stated that if the council reserves the funding for the project and allocation remains illegal, the funding can be reallocated to another project at a later date.

Councilor Hales' amendment failed upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg and Young -- 4

Nays: Councilors Keenan, Prettner Solon, Rapaich, Talarico and President Hardesty -- 5

Councilor Keenan moved to amend the resolution as follows:

reduce Item 6103, Duluth CAP weatherization - regular from "\$395,000" to "\$300,000."

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At this time, 8:55 p.m., Councilors Bohlmann, Hales, Hogg and Young left their seats.

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Councilor Prettner Solon stated that according to the City Charter, the police can be requested to detain councilors in order to maintain a quorum.

Responding to President Hardesty, Mr. Dinan stated that if the council had a quorum before, unless someone raises the point of order that no quorum exists, the regular order of business can continue.

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Councilor Keenan continued with his amendment as follows:

add "Lower Chester Recreation Center" and allocate "\$85,000";

increase Item 6106, Blackmere Field project to "\$26,000," which motion was seconded for discussion.

Councilor Keenan stated he believes the city council needs to take a stronger action in funding neighborhood issues with CDBG funds. He continued that he felt Councilor Hales' amendment was too drastic with not enough time for discussion. Councilor Keenan said he believes this is a start that the council can move forward with in the future.

Councilor Keenan's amendment carried upon a unanimous vote.

Resolution 97-0836, as amended, was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Regulation 24 CFR Part 91 issued by the U.S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD-approved five-year consolidated plan for the city of Duluth; and

WHEREAS, Title I of the Housing and Community Development Act of 1974, as amended, establishes a community development block grant (CDBG) program for the purpose of developing viable urban communities by providing decent housing and suitable living environment and expanding economic opportunities and preventing and/or eliminating conditions of slums and blight, principally for persons of low and moderate income; and

WHEREAS, the secretary of housing and urban development (HUD) is authorized to make grants to cities and/or counties to finance local community development programs approved in accordance with the provisions of Title I of said Act as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended (the emergency shelter grant - ESG - program); and

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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NOW, THEREFORE, BE IT RESOLVED, that the FY98 action plan portion of the city of Duluth consolidated plan for housing and community development FY 1996 - 2000 required by HUD federal legislation is hereby adopted and approved.

BE IT FURTHER RESOLVED, that the city of Duluth hereby makes a finding that expenditures as set forth below are necessary and appropriate and further that said expenditures for the CDBG program will serve to assist low and moderate income individuals/families (no less than 70 percent as described in federal regulations) and/or serve to prevent or eliminate conditions of slum or blight in the community.

BE IT FURTHER RESOLVED, that the proper city officers are hereby authorized to make and submit appropriate documentation to the United State department of housing and urban development for those projects and corresponding funding levels as set forth below:

1998 CITY OF DULUTH COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)  
PROGRAM-FUND 262

<u>ACCOUNT</u>	<u>AMOUNT</u>	<u>PROJECTS</u>
<u>HOUSING PROJECTS</u>		
6101	\$ 250,000	Neighborhood Housing Services of Duluth, Inc.
6102	804,000	HRA housing rehabilitation programs
6103	50,000	HRA/East Hillside HARP II
6104	300,000	Duluth CAP weatherization - regular
6105	25,000	Duluth CAP sliding fee weatherization
<u>PHYSICAL IMPROVEMENT PROJECTS</u>		
6106	26,000	Blackmere Field project
6107	159,000	Cody streets - Phase I
6108	1,000	Sidewalk safety program (West Duluth)
6109	26,000	Lincoln Park restoration and rehabilitation
6110	283,000	Hillside Business District streetscape
6111	60,000	Duluth Community Health Center building expansion
6112	28,000	Observation Hill Park
6113	1,000	Sidewalk safety & residential access (5th Ave. W.)
6114	4,000	88th Avenue West beautification project
6115	1,000	Keene's Creek Park improvements
6116	1,000	Grant Recreation Center improvements
6117	1,000	Town View Villas road reconstruction
6118	85,000	Lower Chester recreation center
<u>ECONOMIC DEVELOPMENT PROJECTS</u>		
6119	\$ 174,000	North Star Community Development Corporation
6120	75,000	Northeast Entrepreneur Fund
6121	45,000	Project SOAR of Northeastern Minnesota
6122	30,000	Damiano Center - opportunities cooking
6123	100,000	Second Harvest Northern Lakes Food Bank

PUBLIC SERVICE PROJECTS

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

6124	\$ 12,000	YMCA Mentoring
6125	43,000	YWCA Kids Corner - central
6126	45,000	Neighborhood Youth Services (NYS)
6127	31,000	Women's Transitional Housing
6128	1,000	Playfair Discovery Center
6129	17,000	Duluth Tenants Union
6130	23,000	Life House Youth Center
6131	65,000	Duluth Community Health Center
6132	13,000	Harbor View Youth Services
6133	80,000	Duluth Hunger Project
6134	27,000	Salvation Army Transitional Housing
6135	73,000	Lincoln Park Youth and Family Center
6136	25,000	Connecting with Kids
6137	12,000	AICHO Transitional Housing
6138	43,000	YWCA Kids Corner - east

ADMIN/PLANNING/CONTINGENCY

6139	\$ 199,435	Program administration
6140	100,000	Neighborhood planning
6141	25,565	Contingency

\$3,400,000 Total

BE IT FURTHER RESOLVED, that the following are hereby designated as the financial resources for the above program:

SOURCE OF FUNDING

Year 21 (1998) CDBG grant - city - estimated	\$3,400,000
Year 2 (1994) CDBG grant - city/county	30,355
Year 3 (1995) CDBG grant - city/county	75,210
Total	\$3,505,565

BE IT FURTHER RESOLVED, that the proper city officers are authorized to make the following transfers in prior year community development accounts:

Year 2 (1994) CDBG Program - 263 Fund

<u>Account</u>	<u>Project</u>	<u>Orig.</u>	<u>Mod.</u>	<u>Revised</u>
6257	East Hillside street/sewers	\$102,144 -	3,355	\$ 98,789
6262	Central Hillside vacant lot landscaping		27,000 - 27,000	-0-
6284	Program administration		436,330 +30,355	466,685

Year 3 (1995) CDBG Program - 263 Fund

<u>Account</u>	<u>Project</u>	<u>Orig.</u>	<u>Mod.</u>	<u>Revised</u>
6357	SRO housing project	\$ 75,000 -	5,000	\$ -0-
6360	Central Hillside stairs		35,019 - 210	34,809
6383	Program administration		276,258 +75,210	351,468
\$105,565 - Total amount reprogrammed				

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BE IT FURTHER RESOLVED, that until final allocations are determined by HUD the following shall be the designation for the below named HUD programs:

1998 HOME program

Funds to be distributed by local formula (shown by percentages). The following assumes Duluth will receive \$640,000 for FY98:

62.5%	\$400,000	HRA single family homeowner rehabilitation
25.0%	\$160,000	Community housing development organization (CHDO) rental, homeowner rehabilitation and new construction
2.5%	\$ 16,000	CHDO project specific assistance
10.0%	\$ 64,000	<u>Program administration (general-city administration)</u>
100%	\$640,000	

1998 ESGP program

Funds to be distributed by local formula once FY98 allocation is received from HUD. The following allocation assumes Duluth will receive \$96,000 for FY98:

1998 ESGP funding recommendation

\$ 86,400	Operations of homeless emergency shelters and services
9,600	Essential social services-prevention of homelessness
	<u>(new/increased services - up to ten percent)</u>
\$ 96,000	

BE IT FURTHER RESOLVED, that the city of Duluth and its officers are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of the department of housing and urban development issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

Resolution 97-0836, as amended, was unanimously adopted.

*[After this resolution was adopted it was subsequently determined that a quorum was not present when the vote was taken and was not validly adopted.]*

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinance was read for the first time:

BY COUNCILOR HOGG

97-033 - AN ORDINANCE APPROPRIATING FUNDS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR THE 1998 ACTION YEAR.

Councilor Prettner Solon moved to amend the ordinance to be consistent with the amendment made to Resolution 97-0836, which motion was seconded and unanimously carried.

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

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

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, October 27, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of council meetings held on March 31 and April 14, 1997, were approved upon a unanimous vote.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-1027-01 Lakehead Outdoor Advertising, Inc., and National Propane petitioning for vacation of that part of 47th Avenue West lying south of a line from the northeast corner of Lot 8, Block 18, to the northwest corner of Lot 1, Block 19 and north of a line from the southwest corner of said Lot 8 to the southwest corner of said Lot 2, all in the recorded plat of Oneota. -- Assessor

97-1027-02 James Barrett submitting acceptance of concurrent use permit conditions granted by Ordinance No. 9345 on August 11, 1997. -- Received

97-1027-11 Catherine Stevens submitting communication pertaining to assessments on 15th Avenue East (97-0836R). -- Received

97-1027-23 Twin Ports Towing submitting communication pertaining to wrecker service fees (97-036-O).-- Received

97-1027-24 The following submitting communications pertaining to Center City Housing Corporation: (a) Center City Housing Corporation: (1) Executive director; (2) Project developer; (b) East Hillside/Endion Neighborhood Coalition. -- Received

97-1027-22 The following submitting communications pertaining to proposed Glensheen Estates (97-0798R): (a) Bruce A. Esse; (b) Glensheen Estates LLC, by William M. Burns, attorney; (c) Bob Lyman; (d) Martha Maddy. -- Received

97-1027-21 The following submitting communications pertaining to removal of snow from public sidewalks within the city (97-030-O): (a) Chris Davis and Jon Vomachka (Woodland Middle School); (b) Scott Freunds Schuh, Sara Lounsbury and Bonnie Lundberg, Chester Park PTA; (c) Sharon Rud, Chester Park principal -- Received

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**REPORTS OF OFFICERS**

97-1027-03 Assessor submitting letter of sufficiency regarding petition for vacation of 47th Avenue West south of Oneota Street. -- Received

97-1027-25 Community development and housing division submitting 1998 CDBG program final allocation. -- Received

97-1027-04 Engineering division submitting monthly project status report of October 1, 1997. -- Received

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**REPORTS OF BOARDS AND COMMISSION**

97-1027-05 Charter commission minutes of April 9, 1997, meeting. -- Received

97-1027-06 Citywide citizens advisory committee minutes of October 7, 1997, meeting. -- Received

97-1027-07 Heritage preservation commission minutes of September 10, 1997, meeting. -- Received

- 97-1027-08 Housing and redevelopment authority minutes of July 29, 1997, meeting. -- Received  
97-1027-09 Sanitary sewer board of WLSSD minutes of October 6, 1997, meeting. -- Received  
97-1027-10 Special assessment board minutes of September 9, 1997, meeting. -- Received

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### RESOLUTIONS TABLED

Councilor Prettner Solon moved to remove Resolution 97-0715, authorizing HOME program CHDO project specific loan agreement with Center City Housing Corporation in the amount of \$10,800; Resolution 97-0721, authorizing 1996 HOME program grant agreement with Center City Housing Corporation in the amount of \$29,000; and Resolution 97-0722, authorizing 1996 HOME program grant agreement with Center City Housing Corporation in the amount of \$26,000, from the table, which motion was seconded and unanimously carried.

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

Sandy Robinson reviewed the response she received from Michael Bolen, project developer, (Public Document No. 97-1027-24(a)(2)) about concerns she raised in her letter to Center City Housing.

Councilor Keenan moved to amend the agreement attached to Resolution 97-0715, by adding the following to the end of the Paragraph 4: "Waiver of repayment of the loan by the city may only be made after approval by the city council," which motion was seconded and carried unanimously.

Councilor Hales noted that the Fourth Street business community and residents support delaying the project at this time. She stated they oppose the start of more Center City Housing projects at this time.

Councilor Hogg stated he believes Center City Housing needs to demonstrate that they are responsive to the neighborhood, are good landlords and worthy of council support.

Councilor Prettner Solon stated that she was told by those present at the meeting when the project was presented that Center City Housing was clear and articulate and that residents there understand it and are receptive to it.

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

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

Nays: Councilor Young and President Hardesty -- 2

Resolution 97-0715, as amended, was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the proper city officials are hereby authorized to enter into a home program CHDO project specific loan agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 97-1027-12, with Center City Housing Corp. in an amount not to exceed \$10,800, payable from Fund 260, Agency 2662, Org. H009.

Resolution 97-0715, as amended, was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales, Hogg and Young -- 4

Approved October 27, 1997

GARY L. DOTY, Mayor

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Regarding Resolution 97-0721, Councilor Hales requested councilors to review police reports involving complaints at properties that Center City Housing owns, and a letter from HUD regarding the misappropriation and misuse of funds occurring nationally. She stated that she has visited these locations and is aware of their status and condition.



Councilor Talarico noted that the issues being raised this evening have not been brought up before and questioned why they are just being mentioned now. He requested that issues such as this be brought up at agenda sessions so councilors can tour the sites if necessary.

Councilor Young stated that he is knowledgeable of property values and what things cost and that he can not support this resolution.

Resolution 97-0721 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into a home program grant agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 97-1027-13, with Center City Housing Corp. in an amount not to exceed \$29,000 payable from Fund 260, Agency 2652, Org. H003.

Resolution 97-0721 was adopted upon the following vote:

Yeas: Councilors Hogg, Keenan, Prettnner Solon, Rapaich, Talarico and President Hardesty -- 6

Nays: Councilors Bohlmann, Hales and Young -- 3

Approved October 27, 1997

GARY L. DOTY, Mayor

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Regarding Resolution 97-0722, Councilor Hales noted a building inspection report citing that the building has no code violations. She questioned why it is necessary for Center City Housing to spend in excess of \$700,000 for improvements.

Councilor Hogg reviewed aspects of the budget for this project, noting especially the "developers overhead" amount, and that he has concerns regarding the size of this project for certain aspects, such as skylights.

Councilor Hogg moved to retable the resolution for further review, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Prettnner Solon -- 1

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At this time, 8:20 p.m., President Hardesty stated the public hearing, regarding the establishment and approval of rules for administration of cable television access channels, would begin (Public Document No. 97-1027-26).

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At this time, 8:25 p.m., President Hardesty closed the public hearing and the regular order of business was resumed.

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### **MOTIONS AND RESOLUTIONS**

BY COUNCILOR YOUNG:

RESOLVED, that Utility Systems of America be and hereby is awarded a contract for construction of water main and sanitary sewer at 87th Avenue West and construction of water main and gas main at 65th Avenue West for the water and gas department in accordance with specifications on its low specification bid of \$39,553.50, terms net 30, FOB job site, \$36,389.22 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533 and \$3,164.28 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533. Water Fund 510 will be reimbursed by sewer division upon completion.

Resolution 97-0840 was unanimously adopted.

Approved October 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute an amendment to each of the city's collective bargaining agreements relating to the city's group health fund, which amendment is on file in the office of the city clerk as Public Document No. 97-1027-14.

Resolution 97-0856 was unanimously adopted.

Approved October 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

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

(a) Authorization of Certificates and Bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the City and its residents, that the City should issue its general obligation improvement refunding bonds and general obligation equipment certificates of indebtedness for the following purposes:

(1) General Obligation Improvement Refunding Bonds, Series 1997F, in the approximate principal amount of \$2,455,000 (the "Bonds"), are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475, for the purpose of refunding the outstanding principal balance of the City's General Obligation Improvement Bonds dated October 1, 1989, and General Obligation Improvement Bonds dated November 1, 1990.

(2) \$1,960,000 General Obligation Equipment Certificates of Indebtedness, Series 1997G (the "Certificates"), are hereby authorized and shall be issued pursuant to Minnesota Statutes, Sections 410.32 and 412.301 (the "Act") and Minnesota Statutes, Chapter 475, and the City Charter, for the purpose of providing funds to purchase capital equipment, as permitted by the Act, having an expected useful life at least as long as the term of the Certificates.

(b) Issuance and Sale of Bonds and Certificates. The terms and conditions of the Bonds and Certificates and the sales thereof are set forth in the Official Terms of Offering, which are attached hereto as Exhibit A and Exhibit B. Each and all of the terms and provisions set forth in the Official Terms of Offering are adopted and confirmed as the terms and conditions of the Bonds and Certificates and the sales thereof, and the City Council shall meet at the time and place fixed herein to consider proposals for the purchase of the Bonds and Certificates.

(c) Negotiated Sale. Evensen Dodge, Inc., independent financial advisor to the City, is hereby authorized to solicit proposals for the sale of the Bonds and Certificates as provided by Minnesota Statutes, Section 475.60, subdivision 2(9).

(d) Subsequent Resolution. The form, specifications and provisions for repayment of the Bonds and Certificates shall be set forth in subsequent resolutions of this City Council.

Resolution 97-0859 was unanimously adopted.

Approved October 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the city council hereby requests the city attorney to request an opinion from the attorney general regarding the propriety of providing certain legal services to Preferred Services, Inc., in 1993.

Resolution 97-0864 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Talarico, Young and President Hardesty -- 7

Nays: Councilors Prettner Solon and Rapaich -- 2

Approved October 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Monroe Truck Equipment be and hereby is awarded a contract for furnishing and delivering 22 truck mounted electric liquid dispensing systems for the street maintenance division in accordance with specifications on its low specification bid of \$31,255.62, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2107, Object E736.

Resolution 97-0838 was unanimously adopted.

Approved October 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

WHEREAS, St. Michael's Church and School has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

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

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

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

Resolution 97-0843 was unanimously adopted.

Approved October 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

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

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

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

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Pequaywan Area Trail Blazers	Mr. Lucky's Bar	October 1, 1997
American Red Cross	Congress Bar & Grill	September 30, 1997
	Shotz Bar	September 30, 1997
Irving Community Club	Gopher Bar & Lounge	September 19, 1997
	Mitch's	September 19, 1997
Northland Vietnam Vets	Rustic Bar	October 7, 1997
	Kom On Inn	October 7, 1997

Resolution 97-0844 was unanimously adopted.  
Approved October 27, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that A.G. O'Brien Plumbing and Heating be and hereby is awarded a contract for furnishing and delivering an air conditioner for the library department data processing area in accordance with specifications on its low specification bid of \$6,909.27, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2107, Object E728.

Resolution 97-0851 was unanimously adopted.  
Approved October 27, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

MKR Limited (Bennett's on the Lake), 600 East Superior Street, with Robert D. Bennett and Kathleen T. Bennett, president, secretary and 51 percent stockholder and Dr. Richard and Jamie Freeman, 49 percent stockholder, transferred from MKR Limited (Bennett's Bar and Grill), 319 West Superior Street.

Resolution 97-0860 was unanimously adopted.  
Approved October 27, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale nonintoxicating malt liquor license for the period ending April 30, 1998, subject to departmental approvals and the payment of sales and property taxes:

Jason Isensee (Diamond's Billiards), 311 West First Street, transferred from Chris Waltz (Diamond's Billiards), same address.

Resolution 97-0861 was unanimously adopted.  
Approved October 27, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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:

Duluth Curling Club, Inc. (Duluth Curling Club), 327 Harbor Drive, for December 10-13, 1997, in conjunction with the United States Curling Trials/Olympics, with a fee of \$400.

Resolution 97-0863 was unanimously adopted.

Approved October 27, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0836, by Councilor Prettner Solon, approving the 1998 action plan portion of the consolidated plan, authorizing a request for HUD federal community development block grant (CDBG) funds, HUD HOME funds, and HUD emergency shelter grant program (ESG) funds for the 1998 program year as well as approving the reallocation of certain prior CDBG funds, was introduced for discussion.

Councilor Prettner Solon voiced support for the projects as listed, and noted the amount of time spent by the citywide citizens advisory committee (CCAC) and the neighborhood advisory council (NAC) in reviewing and investigating the background of all the projects proposed.

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

Bruce Wyman, Hillside Business Association, noted that their organization's projects would be severely affected if anymore cuts are made. He emphasized the increased cost for street lighting, based on the standards that have been set.

Lynn Gibson spoke in support of the CAP weatherization program, noting it is effective and that she will not need to ask for fuel assistance this year because of the installation by CAP of insulation and a new furnace.

Ben Bittner voiced support for heating programs.

Franciane Enderle requested that the housing and redevelopment authority (HRA) be required to follow up on housing projects that have not been completed.

Sandy Robinson supported the Lower Chester and 15th Avenue East project. She questioned the definition of the word "viable," as used for an urban community, and stated hope that it can be discussed in the coming year because everyone has a different idea of what it means.

Al LaFrenier, president of the union representing CAP workers, supported its projects, stating that the organization is committed to resolving problems in the areas noted. He reviewed a letter received from the state director of energy programs, noting their wish to cooperate to work out any problems that may exist.

John Hamil, Endion Neighborhood group, expressed support for recreation projects that affect youth. He noted the need to address recreation, as well as housing and weatherization, and stated he hopes more funds will be made available.

Councilor Keenan moved to amend the resolution as follows:

(a) Change the account number for Duluth CAP weatherization - regular from "6103" to "6104" and reduce the allocation from "\$395,000" to "\$300,000";

(b) Increase the allocation to Blackmere Field project from "\$16,000" to "\$26,000";

(c) Reduce the allocation to Hillside Business District streetscape from "\$283,000" to "\$243,000";

(d) Add a new "Account Number 6118 - Lower Chester Recreation Center" and allocate "\$85,000";

(e) Add a new "Account Number 6119 - 15th Avenue East assessments" and allocate "\$65,000";

(f) Renumber account numbers "6118" through "6140" to account numbers "6120" through "6142";

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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(g) Reduce the allocation to contingency from "\$25,565" to "\$565," which motion was seconded for discussion.

Councilor Hogg stated support for reallocating funds later next year if the 15th Avenue East project does not proceed, noting that the dollars will go back to contingency and the Hillside streetscape.

Councilor Keenan's amendment was unanimously carried.

Councilor Hales moved to amend the resolution as follows:

(a) Reduce the allocation to HRA housing rehabilitation programs from "\$840,000" to "\$804,000";

(b) Increase the allocation to Lincoln Park restoration from "\$26,000" to "\$46,000";

(c) Increase the allocation to Observation Hill Park from "\$28,000" to "\$33,000";

(d) Increase the allocation to sidewalk safety and residential access (Fifth Avenue West) from "\$1,000" to "\$12,000," which motion was seconded and unanimously carried.

Councilor Hales moved to amend the resolution by striking the title "Duluth CAP" from accounts 6103 and 6105 until the formal review from the state is completed. She stated that her intent is for the program to be funded, but in case problems come forth, it might be best if Duluth CAP is not named specifically.

Councilor Hales' motion was seconded and discussed.

Councilors Hogg and Keenan opposed the amendment, noting that it is unnecessary at this time and that it can be done at the time the specific resolutions are submitted for approval.

Councilor Hales' amendment carried upon the following vote:

Yeas: Councilors Bohlmann, Hales, Prettner Solon, Talarico and Young -- 5

Nays: Councilors Hogg, Keenan, Rapaich and President Hardesty -- 4

Councilor Hogg moved to divide the resolution into the three parts of:

(a) "Resolution approving the 1998 action plan of the consolidated plan and authorizing a request for HUD federal community development block grant (CDBG) funds";

(b) "Resolution authorizing a request for HUD funds and HUD emergency shelter grant program (ESG) funds for the 1998 program year";

(c) "Resolution authorizing a request for HUD federal community development block grant (CDBG) funds for the 1998 program year as well as approving the reallocation of certain prior CDBG funds," which motion was second and discussed.

Councilor Hogg's motion to divide the resolution into three parts unanimously carried.

Resolution 97-0836(a) was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Regulation 24 CFR Part 91 issued by the U.S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD-approved five-year consolidated plan for the city of Duluth; and

WHEREAS, Title I of the Housing and Community Development Act of 1974, as amended, establishes a community development block grant (CDBG) program for the purpose of developing viable urban communities by providing decent housing and suitable living environment and expanding economic opportunities and preventing and/or eliminating conditions of slums and blight, principally for persons of low and moderate income; and

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs.

NOW, THEREFORE, BE IT RESOLVED, that the FY98 action plan portion of the city of Duluth consolidated plan for housing and community development FY 1996 - 2000 required by HUD federal legislation is hereby adopted and approved.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BE IT FURTHER RESOLVED, that the city of Duluth hereby makes a finding that expenditures as set forth in Resolution 97-0836(c) are necessary and appropriate and further that said expenditures for the CDBG program will serve to assist low and moderate income individuals/families (no less than 70 percent as described in federal regulations) and/or serve to prevent or eliminate conditions of slum or blight in the community.

BE IT FURTHER RESOLVED, that the city of Duluth and its officers are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of the department of housing and urban development issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

Resolution 97-0836(a) was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales, Hogg and Young -- 4

Approved October 27, 1997

GARY L. DOTY, Mayor

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Resolution 97-0836(b) was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Regulation 24 CFR Part 91 issued by the U.S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD-approved five-year consolidated plan for the city of Duluth; and

WHEREAS, city council Resolution No. 97-0836(a) adopted October 27, 1997, approved the FY98 action plan portion of the Duluth consolidated plan for housing and community development FY 1996 - 2000; and

WHEREAS, the secretary of housing and urban development (HUD) is authorized to make grants to cities and/or counties to finance local community development programs approved in accordance with the provisions of Title I of said Act as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended (the emergency shelter grant - ESG - program); and

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized to make and submit appropriate documentation to the United States department of housing and urban development for those projects and corresponding funding levels as set forth below.

BE IT FURTHER RESOLVED, that until final allocations are determined by HUD the following shall be the designation for the below named HUD programs:

1998 HOME program

Funds to be distributed by local formula (shown by percentages). The following assumes Duluth will receive \$640,000 for FY98:

62.5%	\$400,000 HRA single family homeowner rehabilitation
25.0%	\$160,000 Community housing development organization (CHDO) rental, homeowner rehabilitation and new construction
2.5%	\$ 16,000 CHDO project specific assistance





PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

1998 CITY OF DULUTH COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM-  
FUND 262

<u>ACCOUNT</u>	<u>AMOUNT</u>	<u>PROJECTS</u>
<u>HOUSING PROJECTS</u>		
6101	\$ 250,000	Neighborhood Housing Services of Duluth, Inc.
6102	804,000	HRA housing rehabilitation programs
6103	50,000	HRA/East Hillside HARP II
6104	300,000	Weatherization - regular
6105	25,000	Sliding fee weatherization
<u>PHYSICAL IMPROVEMENT PROJECTS</u>		
6106	26,000	Blackmere Field project
6107	159,000	Cody streets - Phase I
6108	1,000	Sidewalk safety program (West Duluth)
6109	46,000	Lincoln Park restoration and rehabilitation
6110	243,000	Hillside Business District streetscape
6111	60,000	Duluth Community Health Center building expansion
6112	33,000	Observation Hill Park
6113	12,000	Sidewalk safety and residential access (Fifth Avenue West)
6114	4,000	88th Avenue West beautification project
6115	1,000	Keene's Creek Park improvements
6116	1,000	Grant Recreation Center improvements
6117	1,000	Town View Villas road reconstruction
6118	85,000	Lower Chester recreation center
6119	65,000	15th Avenue East assessment repayment
<u>ECONOMIC DEVELOPMENT PROJECTS</u>		
6120	\$ 174,000	North Star Community Development Corporation
6121	75,000	Northeast Entrepreneur Fund
6122	45,000	Project SOAR of Northeastern Minnesota
6123	30,000	Damiano Center - opportunities cooking
6124	100,000	Second Harvest Northern Lakes Food Bank
<u>PUBLIC SERVICE PROJECTS</u>		
6125	\$ 12,000	YMCA Mentoring
6126	43,000	YWCA Kids Corner - central
6127	45,000	Neighborhood Youth Services (NYS)
6128	31,000	Women's Transitional Housing
6129	1,000	Playfair Discovery Center
6130	17,000	Duluth Tenants Union
6131	23,000	Life House Youth Center
6132	65,000	Duluth Community Health Center
6133	13,000	Harbor View Youth Services
6134	80,000	Duluth Hunger project

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

6135	27,000	Salvation Army Transitional Housing
6136	73,000	Lincoln Park Youth and Family Center
6137	25,000	Connecting with Kids
6138	12,000	AICHO Transitional Housing
6139	43,000	YWCA Kids Corner - east

ADMIN/PLANNING/CONTINGENCY

6140	\$ 199,435	Program administration
6141	100,000	Neighborhood planning
6142	565	Contingency

\$3,400,000 Total

BE IT FURTHER RESOLVED, that the following are hereby designated as the financial resources for the above program:

SOURCE OF FUNDING

Year 21 (1998) CDBG grant - city - estimated	\$3,400,000
Year 2 (1994) CDBG grant - city/county	30,355
Year 3 (1995) CDBG grant - city/county	75,210

Total \$3,505,565

BE IT FURTHER RESOLVED, that the proper city officers are authorized to make the following transfers in prior year community development accounts:

Year 2 (1994) CDBG Program - 263 Fund

<u>Account</u>	<u>Project</u>	<u>Orig.</u>	<u>Mod.</u>	<u>Revised</u>
6257	East Hillside street/sewers	\$102,144 -	3,355	\$ 98,789
6262	Central Hillside vacant lot landscaping		27,000 - 27,000	-0-
6284	Program administration		436,330 +30,355	466,685

Year 3 (1995) CDBG Program - 263 Fund

<u>Account</u>	<u>Project</u>	<u>Orig.</u>	<u>Mod.</u>	<u>Revised</u>
6357	SRO housing project	\$ 75,000 -	75,000	\$ -0-
6360	Central Hillside stairs		35,019 - 210	34,809
6383	Program administration		276,258 +75,210	351,468

\$105,565 - Total amount reprogrammed

BE IT FURTHER RESOLVED, that the city of Duluth and its officers are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of the department of housing and urban development issued pursuant thereto. This authorization shall

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

Resolution 97-0836(c), as amended, was unanimously adopted.

Approved October 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG

97-033 (9348) - AN ORDINANCE APPROPRIATING FUNDS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR THE 1998 ACTION YEAR.

Councilor Hogg moved to suspend the rules to consider the ordinance at this time, which motion was seconded and unanimously carried.

Councilor Keenan moved to amend the ordinance to be consistent with Resolution 97-0836(c), which motion was seconded and unanimously carried.

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

- - -

Resolution 97-0841, by Councilor Prettnner Solon, authorizing agreement with DEDA for snow storage in Bayfront for the 1997-98 winter season, was introduced for discussion.

Councilor Keenan noted that he will not support this resolution because of the eye sore that this site creates for visitors coming into the city.

Administrative Assistant Nollenberger stated that the Duluth economic development authority (DEDA) will submit a report by January 21, and that it will still be the intent to use this site for the balance of this year, but that DEDA desires the administration to have another site established for future years.

Councilor Talarico noted that DEDA is also concerned about the existing site, but noted that a location close to the Downtown is more economical because of the costs of transportation associated from running snow trains from the Downtown area.

Resolution 97-0841 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file with the office of the city clerk as Public Document No. 97-1027-15, with the Duluth economic development authority pursuant to which the city will be authorized to dump snow removed from city streets and parking lots on property owned by DEDA in the Bayfront area for the winter of 1997-98 at no cost to city.

Resolution 97-0841 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Prettnner Solon, Rapaich, Talarico and Young -- 7

Nays: Councilor Keenan and President Hardesty -- 2

Approved October 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute a grant agreement with the Minnesota department of natural resources, which agreement is on file in the office of the city clerk as Public Document No. 97-1027-16 and under which agreement the city will receive \$7,000 to reimburse it for costs incurred in maintaining cross country ski trails in the city of Duluth

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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during the 1997-98 ski season. The reimbursement should be deposited in General Fund 100, Agency 500, Org. 1920, Revenue Source 4232.

Resolution 97-0846 was unanimously adopted.

Approved October 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Resolution 97-0144 to M.J. Widdes, Inc., for furnishing hay, straw, animal food and supplies be amended to increase the amount by \$2,500 for a new total of \$10,540.22, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5245.

Resolution 97-0849 was unanimously adopted.

Approved October 27, 1997

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with the Minnesota department of economic security to provide Minnesota youth works/american corps programming for the period September 1, 1997, through August 31, 1998, providing work experience for ten participants who will do community service work 30 hours per week as tutors at local schools while they also pursue completion of their high school education, as needed. This contract represents the federally funded portion of the program. A copy of this grant agreement shall be on file in the city clerk's office as Public Document No. 97-1027-17.

FURTHER RESOLVED, that funds will be accepted upon receipt of the notice of funds available (NFA).

Resolution 97-0847 was unanimously adopted.

Approved October 27, 1997

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with the Minnesota department of economic security to provide Minnesota youth works/american corps programming for the period September 1, 1997, through August 31, 1998, providing work experience for ten participants who will do community service work 30 hours per week as tutors at local schools while they also pursue completion of their high school education, as needed. This contract represents the state funded portion of the program. A copy of this grant agreement shall be on file in the city clerk's office as Public Document No. 97-1027-18.

FURTHER RESOLVED, that funds will be accepted upon receipt of the notice of funds available (NFA).

Resolution 97-0848 was unanimously adopted.

Approved October 27, 1997

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

WHEREAS, Section 27(a) of the city's cable television franchise with Bresnan Communications Company provides that the city shall, after holding a public hearing, establish rules and regulations pertaining to the administration of public access channels; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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WHEREAS, Section 27(a) of the cable communications franchise with Bresnan Communications Company provides that the city, either directly or through its designee, shall administer the public access channels in Duluth; and

WHEREAS, the city of Duluth has contracted with Duluth-Superior Public Access Community Television (PACT) to manage and administer the public access channels in Duluth; and

WHEREAS, representatives from the city of Duluth and PACT have developed rules for the administration of the public access channels that are satisfactory to Bresnan Communications; and

WHEREAS, the city of Duluth has held a public hearing to discuss the above mentioned operating rules and heard from all interested parties.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby establishes and approves of the rules administering public access channels that are on file in the city clerk's office as Public Document No. 97-1027-20.

RESOLVED FURTHER, that the city clerk is authorized and directed to send a certified copy of this resolution and the attached rules to Bresnan Communications Company for their formal written approval.

Resolution 97-0855 was unanimously adopted.

Approved October 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR YOUNG:

RESOLVED, that Minnesota Pipe and Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 120 transitional cast couplings for the water and gas department in accordance with specifications on its low specification bid of \$7,767.05, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 97-0852 was unanimously adopted.

Approved October 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized and directed to execute a permit agreement between the city of Duluth and the St. Louis and Lake counties regional railroad authority for a construction permit to use the railroad right-of-way for construction of a retaining wall to stabilize the slope along the Lakewalk between 190 feet east of Ninth Avenue East and 40 feet west of Tenth Avenue East for a consideration of \$1.

Resolution 97-0839 was unanimously adopted.

Approved October 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Denny's Lawn and Garden be and hereby is awarded a contract for furnishing and delivering trees for 1998 for the city nursery in accordance with specifications on its low specification bid of \$16,230.60, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5225.

Resolution 97-0850 was unanimously adopted.

Approved October 27, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Traffic Control Corporation be and hereby is awarded a contract for furnishing and delivering traffic signal cabinets with controllers for the traffic operations division in accordance with specifications on its low specification bid of \$44,065.44, terms net 30, FOB destination, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2156, Object 5530. These traffic controllers are for the Woodland Avenue signal project to be reimbursed from municipal state aid.

Resolution 97-0853 was unanimously adopted.

Approved October 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that United Piping, Inc. (formally Ogstons, Inc.), be and hereby is awarded a contract for furnishing snowplowing service for Stebner Road for the street maintenance division in accordance with specifications on its low specification bid of \$6,000, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5403.

Resolution 97-0854 was unanimously adopted.

Approved October 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Northland Constructors of Duluth be and hereby is awarded a contract for construction of Railroad Street between Garfield Avenue and Eighth Avenue West for the engineering division in accordance with specifications on its low specification bid of \$2,059,622.86, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./ Agency 038, Organization 5299, Object 5530. The breakdown of funding is as follows: Water Fund 510, \$42,950; Gas Fund 520, \$117,360; Sewer Fund 530, \$50,272; Permanent Improvement Fund 411, \$105,585; Special Assessment Fund 810, \$254,850; municipal state aid, \$1,788,605.86, which includes \$300,000 for railroad crossings to be billed by the railroads as they are constructed.

Resolution 97-0857 was unanimously adopted.

Approved October 27, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete a structural survey of the elevated parking floor for fire station No. 10; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to determine the criteria and composition of the structural review of the parking slabs at fire station No. 10; and

WHEREAS, Northland Consulting Engineers has submitted a proposal for consulting engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Northland Consulting Engineers to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$7,800, will be payable from the General Fund 100, Dept./Agency 500, Organization 1950, Object 5319.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Resolution 97-0858 was unanimously adopted.  
Approved October 27, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

BE IT RESOLVED, that in accordance with the provisions of Section 33-94 of the Duluth City Code, 1959, as amended, the following angle parking is hereby established in the parking bay located on the east side of 15th Avenue East from 40 feet north of London Road to 110 feet north.

FURTHER RESOLVED, that in accordance with the provisions of Section 33-84 of the Duluth City Code, 1959, as amended, the 70 foot angle parking area be restricted to one hour parking from 8:00 a.m. to 6:00 p.m. and no parking 2:00 a.m. to 6:00 a.m. each night.

FURTHER RESOLVED, that the alternate side parking restriction now in effect in this block is hereby rescinded.

Resolution 97-0831 was unanimously adopted.  
Approved October 27, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

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

- Front of 2510 West 15th Street
- Front of 5914 Raleigh Street
- Front of 323 North 13th Avenue East
- Side of 1401 East Third Street.

Resolution 97-0867 was unanimously adopted.  
Approved October 27, 1997  
GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the first time:

BY COUNCILOR YOUNG

97-037 - AN ORDINANCE ADDING A NEW ARTICLE XXVII TO CHAPTER 2 OF THE CITY CODE ESTABLISHING A PAYMENT IN LIEU OF TAXES BOARD.

- - -

BY COUNCILOR HALES

97-035 - AN ORDINANCE INCREASING THE MAXIMUM FEES WHICH MAY BE CHARGED BY EMERGENCY WRECKER SERVICES, AMENDING SECTION 33-259 OF THE CITY CODE.

- - -

BY COUNCILOR HALES

97-036 - AN ORDINANCE ESTABLISHING A USER CHARGE FOR THE EXCESSIVE CONSUMPTION OF POLICE SERVICES, ADDING A NEW ARTICLE III TO CHAPTER 40 OF THE CITY CODE.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR PRETTNER SOLON

97-029 (9349) - AN ORDINANCE AUTHORIZING THE GRANTING OF AN EASEMENT OVER CITY-OWNED PROPERTY IN THE SOUTHWEST QUARTER OF THE SECTION 5, TOWNSHIP

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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48, RANGE 15 WEST, ST. LOUIS COUNTY, MINNESOTA, TO JOHN DESMEDT AND GLORIA DESMEDT, HUSBAND AND WIFE.

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

- - -

BY COUNCILOR PRETTNER SOLON

97-031 (9350) - AN ORDINANCE GRANTING CONCURRENT USE PERMIT FOR A PRIVATE UNDERGROUND UTILITY LYING EAST OF EIGHTH STREET IN FOURTH ALLEY FOR DULUTH FAMILY PRACTICE CENTER.

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

- - -

BY COUNCILOR PRETTNER SOLON

97-034 (9351) - AN ORDINANCE INCREASING THE NUMBER OF MEMBERS ON THE BOARD OF ZONING APPEALS; AMENDING SECTIONS 50-45 AND 50-46 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Prettner Solon introduced the ordinance for discussion.

Councilor Hogg moved to amend the ordinance, in the third sentence of Section 50-46, by changing the word "three" to "four," which motion was seconded and unanimously carried.

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

- - -

BY COUNCILOR TALARICO

97-028 (9352) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOT 9, WEST SECOND STREET, DULUTH PROPER FIRST DIVISION, EXCEPT THE NORTHERLY 30 FEET THEREOF, TO THE DULUTH TEACHER'S CREDIT UNION FOR CONSIDERATION OF \$22,000, PAYABLE TO GENERAL FUND 100, AGENCY 700, ORG. 1418, OBJ. 4640.

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

- - -

BY COUNCILOR TALARICO

97-030 - AN ORDINANCE PERTAINING TO THE REMOVAL OF SNOW FROM PUBLIC SIDEWALKS WITHIN THE CITY; AMENDING SECTIONS 45-56, 45-57, 45-61 AND 45-62, AND REPEALING SECTIONS 45-58, 45-60, 45-63, 45-64, 45-65, 45-66, 45-67, 45-68, 45-69, 45-70, 45-71 AND 45-72 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Talarico introduced the ordinance for discussion.

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

Grey Doffin voiced concern for the plowing practice of "benching," where larger blades are used to push the snow above and back from the curb, which ends up on the sidewalks of streets with narrow boulevards. He also expressed concern with regard to absent landlords and stated that the notice provisions of the proposed ordinance should not be dragged out to insure compliance.

Bonnie Fuller-Kask, Duluth Pedestrian-Bicycle Transit Coalition and Chester Park safety committee, expressed concern for the safety of children and noted the support from PTA's, postal carriers and the transit authority for cleared sidewalks.

Jeff Brown, Duluth Pedestrian/Bicycle Transit Coalition member and South St. Louis County bicycle representative to ARDC, noted that this is a transportation issue and voiced concern that the boulevards be preserved as they were designed in the new street program.



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Bryn Jacobson, Duluth Pedestrian/Bicycle Transit Coalition representative to the transportation advisory committee of the metropolitan interstate committee, noted that snow removal is the number one issue impeding pedestrian travel in the city.

Councilor Keenan stated he believes additional funding is necessary to make this proposal work and requested the administration to research and report back on ways to accomplish the desired results of this ordinance.

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

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

Nays: Councilor Talarico -- 1

- - -

BY COUNCILOR TALARICO

97-032 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 4 AND 5, BLOCK 23, REARRANGEMENT OF HUNTERS' GRASSY POINT ADDITION TO DULUTH, EXCEPT PORTION TAKEN FOR TRAIL PURPOSES TO HABITAT FOR HUMANITY, AT NO COST.

Councilor Talarico introduced the ordinance for discussion.

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

Mike Conlan, Habitat for Humanity, noted that the organization has finished its tenth house in Duluth and added that no government dollars are used for these houses. He reviewed that the city approached Habitat for Humanity, and 16 other organizations, to get this rental property into home ownership. Mr. Conlan stated that it appears that the city may be considering donating the house to Spirit Valley Citizens Neighborhood Development Association (SVCNDA), which will market and receive the profits from the house. He noted that Habitat for Humanity has tried to work with the city and SVCNDA to understand their neighborhood desires and concerns regarding occupancy and design.

Councilor Hales expressed concern that in her district there have been habitat houses sitting vacant and the future occupants have not been working on the construction as has been the pattern with Habitat for Humanity nationwide.

Councilor Hogg reviewed details of this particular property and stated many individuals have expressed an interest in this property. He supported putting the property on the market for sale.

Ordinance 97-032 failed upon the following vote (Public Document No. 97-1027-19):

Yeas: Councilor Prettner Solon -- 1

Nays: Councilors Bohlmann, Hales, Hogg, Keenan, Rapaich, Talarico, Young and President Hardesty -- 8

- - -

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

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 9348**

BY COUNCILOR HOGG:

AN ORDINANCE APPROPRIATING FUNDS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR THE 1998 ACTION YEAR.

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

Section 1. Pending anticipated receipt of funds from the U.S. department of housing and urban development (HUD), said funds shall be appropriated to the federal program fund - community development - as follows:

1998 CITY OF DULUTH COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM-

FUND 262

<u>ACCOUNT</u>	<u>AMOUNT</u>	<u>PROJECTS</u>
<u>HOUSING PROJECTS</u>		
6101	\$ 250,000	Neighborhood Housing Services of Duluth, Inc.
6102	804,000	HRA Housing rehabilitation programs
6103	50,000	HRA/East Hillside HARP II
6104	300,000	Weatherization - regular
6105	25,000	Sliding fee weatherization
<u>PHYSICAL IMPROVEMENT PROJECTS</u>		
6106	26,000	Blackmere Field project
6107	159,000	Cody Streets - Phase I
6108	1,000	Sidewalk safety program (West Duluth)
6109	46,000	Lincoln Park restoration and rehabilitation
6110	243,000	Hillside Business District streetscape
6111	60,000	Duluth Community Health Center building expansion
6112	33,000	Observation Hill Park
6113	12,000	Sidewalk safety and residential access (Fifth Avenue West)
6114	4,000	88th Avenue West beautification project
6115	1,000	Keene's Creek Park improvements
6116	1,000	Grant Recreation Center improvements
6117	1,000	Town View Villas road reconstruction
6118	85,000	Lower Chester recreation center
6119	65,000	15th Avenue East assessment repayment
<u>ECONOMIC DEVELOPMENT PROJECTS</u>		
6120	\$ 174,000	North Star Community Development Corporation
6121	75,000	Northeast Entrepreneur Fund
6122	45,000	Project SOAR of Northeastern Minnesota
6123	30,000	Damiano Center - opportunities cooking
6124	100,000	Second Harvest Northern Lakes Food Bank
<u>PUBLIC SERVICE PROJECTS</u>		
6125	\$ 12,000	YMCA Mentoring
6126	43,000	YWCA Kids Corner - central
6127	45,000	Neighborhood Youth Services (NYS)
6128	31,000	Women's Transitional Housing
6129	1,000	Playfair Discovery Center

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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6130	17,000	Duluth Tenants Union
6131	23,000	Life House Youth Center
6132	65,000	Duluth Community Health Center
6133	13,000	Harbor View Youth Services
6134	80,000	Duluth Hunger Project
6135	27,000	Salvation Army Transitional Housing
6136	73,000	Lincoln Park Youth and Family Center
6137	25,000	Connecting with Kids
6138	12,000	AICHO Transitional Housing
6139	43,000	YWCA Kids Corner - east

ADMIN/PLANNING/CONTINGENCY

6140	\$ 199,435	Program administration
6141	100,000	Neighborhood planning
6142	565	Contingency

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\$3,400,000 Total

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 21, 1997)

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

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Prettnner Solon, Rapaich, Talarico, Young and President Hardesty -- 9

Nays: None -- 0

Passed October 27, 1997  
Approved October 27, 1997  
GARY L. DOTY, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 9349**

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AUTHORIZING THE GRANTING OF AN EASEMENT OVER CITY-OWNED PROPERTY IN THE SOUTHWEST QUARTER OF THE SECTION 5, TOWNSHIP 48, RANGE 15 WEST, ST. LOUIS COUNTY, MINNESOTA, TO JOHN DESMEDT AND GLORIA DESMEDT, HUSBAND AND WIFE.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to execute and deliver an easement deed conveying an easement for access purposes over, under and across the following described property in St. Louis County, Minnesota, to John DeSmedt and Gloria DeSmedt, husband and wife:

The southwest quarter of Section 5, Township 48, Range 15 West, St. Louis County, Minnesota, that lies northerly of the plat of Fond du Lac as said plat was recorded in the office of the register of deeds, St. Louis County, MN in Book A of Plats, page 55 and 56, Notes recorded in Book G of Miscellaneous, page 387, Section 5, Township 48 North of Range 15 West of the Fourth Principal Meridian according to the United States government survey thereof, and lies westerly of the easterly 600.00 feet of the southeast quarter of the southwest quarter of Section 5.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Said access easement being that portion of the following described property, which is easterly of the easterly right-of-way line of 131 Avenue West and is 10.00 feet to the left and 10.00 to the right of the following described line: Beginning at the intersection of the centerline of 131 Avenue West and the north line of the plat of Fond du Lac; thence northerly along the extended centerline of 131 Avenue West, assumed bearing north 9 degrees 0 minutes east, 38.00 feet to a point hereinafter called Point A.

Said access easement continues, being 10.00 feet to the left and 10.00 feet to the right of the following described line:

Beginning at said Point A, thence 131.85 feet north 74 degrees 30 minutes east; thence northeasterly along a tangential curve, concave to the northwest, central angle 25 degrees 0 minutes, tangent 35.00 feet; thence north 29 degrees 30 minutes east along a tangent line 63.40 feet; thence northeasterly along a tangential curve, concave to the southeast, central angle 72 degrees 30 minutes, tangent 50.00 feet, to a point on the said westerly line of the easterly 600.00 feet of the southeast quarter of the southwest quarter of Section 5. Side lines of said easement are prolonged or shortened to terminate in boundary of the grantor.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: November 30, 1997)

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

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

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed October 27, 1997  
Approved October 27, 1997  
GARY L. DOTY, Mayor

- - -

**ORDINANCE NO. 9350**

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE GRANTING CONCURRENT USE PERMIT FOR A PRIVATE UNDERGROUND UTILITY LYING EAST OF EIGHTH STREET IN FOURTH ALLEY FOR DULUTH FAMILY PRACTICE CENTER.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to Duluth Family Practice Center, their successors and interests, referred to herein as the permittees, to occupy, erect and maintain a private utility line in that part of Fourth Alley as the same was dedicated to the use of the public and the plat of Portland Division, on file and of record in the office of the register of deeds in and for the St. Louis County, Minnesota, described as follows: A concurrent use permit to use for utility purposes, that portion of the alley, 6.00 feet in width, adjacent to Lots 2 and 3, Block 74 and Lot 2, Block 88 in Portland Division of Duluth described as, commencing at the intersection of the east right-of-way of Eighth Avenue East and the north right-of-way of said alley; thence northeasterly along said north right-of-way of said alley 39.00 feet to the point of beginning; thence easterly, deflection angle 69 degrees 00 minutes 00 seconds to the right, 21.42 feet to the south right-of-way of said alley; thence northeasterly, deflection angle 69 degrees 00 minutes 00 seconds to the left, along the south right-of-way of said alley, 6.43 feet; thence westerly, deflection angle 111 degrees 00 minutes 00 seconds to the left,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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21.42 feet to the north right-of-way of said alley; thence southwesterly, deflection angle 69 degrees 00 minutes 00 seconds to the left, 6.43 feet along said north right-of-way of said alley to the point of beginning.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

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

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said private utility line and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees and without right on the part of the permittees to claim from the city of Duluth or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees and agree that such private utility line shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said Fourth alley and agree that the city of Duluth shall not be liable for damage caused to such private utility line while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such private utility line in said Fourth Alley.

Section 6. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 30, 1997)

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

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

Nays: None -- 0

Passed October 27, 1997  
Approved October 27, 1997  
GARY L. DOTY, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 9351**

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE INCREASING THE NUMBER OF MEMBERS ON THE BOARD OF ZONING APPEALS; AMENDING SECTIONS 50-45 AND 50-46 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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The city of Duluth does ordain:

Section 1. That Section 50-45 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-45. Membership; appointment; term of office; vacancies.

The board of zoning appeals shall consist of seven members, all of whom shall be citizens of the city and none of whom shall be a paid city employee. Six shall be appointed by the mayor and with the consent of the city council. One member of the board shall be a member of the planning commission, appointed annually by the mayor with the consent of the city council. Members shall be appointed for a term of four years; except, that the terms of members of the first board so appointed shall be staggered so as to provide expiration of the term of one member each year. Vacancies shall be filled by appointment for the unexpired term only. Members of the board shall serve without compensation.

Section 2. That Section 50-46 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-46. Meetings; officers; quorum; records.

Meetings of the board of zoning appeals shall be held at such times as the board may determine. The board shall select one of its members as chairman and one as vice chairman, who shall serve one year and until their successors have been selected. Four members of the board shall constitute a quorum for the transaction of business. The board shall cause a proper record to be kept of its proceedings.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 30, 1997)

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

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

Nays: None -- 0

Passed October 27, 1997

Approved October 27, 1997

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 9352**

BY COUNCILOR TALARICO:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOT 9, WEST SECOND STREET, DULUTH PROPER FIRST DIVISION, EXCEPT THE NORTHERLY 30 FEET THEREOF, TO THE DULUTH TEACHER'S CREDIT UNION FOR CONSIDERATION OF \$22,000, PAYABLE TO GENERAL FUND 100, AGENCY 700, ORG. 1418, OBJ. 4640.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to execute and deliver a quit claim deed conveying the following described property in St. Louis County, Minnesota, to the Duluth Teachers' Credit Union, for a consideration of \$22,000, with said amount payable to General Fund 100, Agency 700, Org. 1418, Obj. 4640, to-wit: Lot 9, West Second Street, Duluth Proper First Division, except the northerly 30 feet thereof.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: November 30, 1997)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Prettnner Solon, Rapaich, Talarico, Young  
and President Hardesty -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed October 27, 1997

Approved October 27, 1997

GARY L. DOTY, Mayor

**OFFICIAL PROCEEDINGS**

Special meeting of the Duluth City Council held on Thursday, November 6, 1997, 5:00 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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**MOTIONS AND RESOLUTIONS**

BY COUNCILOR RAPAICH:

WHEREAS, on November 4, 1997, there was held in the city of Duluth, pursuant to the provisions of Laws of Minnesota, 1973, Chapter 281, a general municipal election for the purpose of electing certain city officers; and

WHEREAS, the judges of the election precincts in the city have made their returns of said election, and the city council, acting as a canvassing board, has duly canvassed said returns (Public Document No. 97-1106-01) at 5:00 p.m., November 6, 1997, and ascertained the number of ballots cast at said election and thereby declared that at said election there were cast 17,315 votes, said votes having been cast in the following manner:

THAT for the offices of councilor at large, Patty Edwards received 8,634 votes, Lynn Hardesty received 10,797 votes, Guy E. Sederski received 6,394 votes, Bruce M. Wyman received 4,030 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT for the office of councilor, second district, Kay Biga received 1,884 votes, Greg Gilbert received 2,033 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT for the office of councilor, fourth district, Jonathan James Lee received 704 votes, Dale Swapinski received 2,444 votes and candidates receiving write-in votes as indicated on the canvassing board report;

NOW, THEREFORE, BE IT RESOLVED, that Lynn Hardesty and Patty Edwards having received the two highest numbers of the votes cast at said election for the offices of councilor at large are hereby declared duly elected for terms of four years.

FURTHER RESOLVED, that Greg Gilbert having received the majority of all votes cast at said election for the office of councilor, second district, is hereby duly elected for a term of four years.

FURTHER RESOLVED, that Dale Swapinski having received the majority of all votes cast at said election for the office of councilor, fourth district, is hereby duly elected for a term of four years.

Resolution 97-0894 was unanimously adopted.

Approved November 6, 1997

GARY L. DOTY, Mayor

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

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



**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, November 10, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of council meetings held on April 28, May 12 and May 19, 1997, were approved upon a unanimous vote.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-1110-01 Dale E. Loushin, et al. (four signatures) submitting petition for construction of alley ditch in Kingston Alley between 51st Avenue East and 52nd Avenue East. -- Assessor

97-1110-26 Terry Perella submitting petition for concurrent use permit for a fixed awning at 103 West First Street. -- Planning commission

97-1110-02 Minnesota state auditor submitting management and compliance report of city of Duluth for the year ended December 31, 1996. -- Received

97-1110-15 Timothy H. Hansen submitting communication pertaining to proposed condemnation of certain property for the Oneota III redevelopment project. -- Received

97-1110-13 Kevin Kemp (Spirit Bottle Shoppe) submitting communication pertaining to proposed user charge for excessive consumption of police services (97-036-O). -- Received

97-1110-14 Jill Lyman-Lusche submitting communication pertaining to the proposed Glensheen Estate townhouse development (97-0798R). -- Received

97-1110-25 Lisa S. Yee submitted communication pertaining to proposed federal national resource water designation for Lake Superior (97-0782R). -- Received

97-1110-12 The following submitting communications pertaining to proposed skywalk easement vacation (97-0819R): (a) Eva Helaine Anderson; (b) Rachel Kincade (Life House, Inc.); (c) John G. Rathe (Young Duluthians Care); (d) Rev. David Sorenson. -- Received

97-1110-03 The following submitting communications pertaining to removal of snow from public sidewalks within the city (97-030-O): (a) Larry R. Anderson and Laura J. Johnson (Duluth Public Schools transportation department); (b) Mary Mason (Public Housing Outreach Program); (c) Ginger McFaul; (d) Deb Sauter (principal, Grant Language Magnet School); (e) Arden W. Stabs (National Association of Letter Carriers); (f) Monte J. Wittman (Lowell Elementary School). -- Received

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**REPORTS OF OFFICERS**

97-1110-04 Community development and housing division manager submitting HRA housing rehabilitation report for August, 1997. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

97-1110-05 Board of directors of trusts for Miller-Dwan Medical Center minutes of: (a) August 21; (b) September 18, 1997, meetings. -- Received

97-1110-06 Board of zoning appeals minutes of September 23, 1997, meeting. -- Received

97-1110-07 Civil service board minutes of October 7, 1997, meeting. -- Received

97-1110-08 Duluth transit authority: (a) Minutes of: (1) June 25; (2) July 30; (3) August 27, 1997, meetings; (b) Income statements of: (1) July; (2) August, 1997. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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97-1110-09 Sanitary sewer board of WLSSD minutes of October 20, 1997, meeting. -- Received

97-1110-10 Seaway Port authority of Duluth: (a) Minutes of August 25, 1997, meeting; (b) Balance sheet and income statement for period ending July 31, 1997; (c) Budget format. -- Received

97-1110-24 Special assessment board report for the proposed improvement of Second Street Alley from 14th to 15th Avenues East. -- Received

97-1110-11 Tree commission minutes of October 13, 1997, meeting. -- Received

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**RESOLUTIONS TABLED**

Councilor Prettner Solon moved to remove Resolution 97-0722, authorizing 1996 HOME program grant agreement with Center City Housing Corporation in the amount of \$26,000, from the table, which motion was seconded and unanimously carried.

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

Michael Bolen, Center City Housing Corporation project director, voiced support for the resolution. He added that he has answered all of the council's questions and urged passage of the resolution. Mr. Bolen continued by saying that they are spending money on renovating, fixing code violations that need to be updated and preventing problems by updating the roof, bricks, tuckpointing and replacing skylights. He also stated that Center City Housing Corporation is in good standing with the banks and the housing and urban development (HUD) guidelines.

Marlene Bach, city zoning coordinator, confirmed that the intention of the board of Center City Housing Corporation is to provide safe, secure and reasonable housing for low income people.

Councilor Hogg questioned the budget information that has been submitted to the council. He continued by saying that, according to the city assessor's office, the buildings and land are worth \$365,000, and questioned why Center City Housing Corporation is spending almost \$649,000 on property worth 1/2 as much.

Councilor Talarico stated that the values that the assessor's office has does not always reflect the accurate market value of property. He stated that the council has to look at the whole picture.

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

Resolution 97-0722 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into a HOME program grant agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 97-1110-16, with Center City Housing Corp. in an amount not to exceed \$26,000 payable from Fund 260, Agency 2652, Org. H003.

Resolution 97-0722 was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales, Hogg and Young -- 4

Approved November 10, 1997

GARY L. DOTY, Mayor

- - -

Councilor Prettner Solon moved to remove Resolution 97-0792(b), requesting the board of county commissioners of St. Louis County to reclassify from conservation to nonconservation and to free-convey a certain tax forfeit parcel to the city of Duluth, from the table, which motion was seconded and unanimously carried.

Councilor Hales stated that there are several places on Park Point that can be used by kayakers and requested that the council vote against the resolution. She stated that the kayakers are using the property for entry into the water and want to be able to maintain access there.

Resolution 97-0792(b) failed upon the following vote (Public Document No. 97-1110-23):

Yeas: None -- 0

Nays: Councilors Bohlmann, Hales, Hogg, Keenan, Prettner Solon, Rapaich, Talarico, Young and President Hardesty -- 9

- - -

Councilor Keenan moved to remove Resolution 97-0782, supporting a federal outstanding national resource water designation for Lake Superior, from the table, which motion was seconded and unanimously carried.

Councilor Keenan supported the resolution, stating that it supports keeping Lake Superior safe from pollution.

Councilor Hogg questioned if there is a cost to the city involved if the council supports this resolution.

Councilors Keenan and Hales moved to retable the resolution until November 24 for more information, which motion was seconded and unanimously carried.

- - -

### **MOTIONS AND RESOLUTIONS**

BY COUNCILOR RAPAICH:

RESOLVED, that Xerox Corporation be and hereby is awarded a contract for furnishing and delivering a 100 copy per minute, high volume copier machine at \$42,634.20 including eight percent interest over 60 months and furnishing a 60 month copier maintenance agreement at an estimated \$1,355 per month rate for the city clerk's division in accordance with specifications on its low specification bid, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 015, Organization 2110, Objects 5404, 5604P, 5615I.

Resolution 97-0878 was unanimously adopted.

Approved November 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Resolution 97-0399 to North Country Equipment for furnishing O.E.M parts and repairs for John Deere equipment be amended to increase the amount by \$5,000 for a new total of \$13,000, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 97-0880 was unanimously adopted.

Approved November 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Resolution 97-0210 to Maney International for furnishing O.E.M. parts and repairs for International trucks be amended to increase the amount by \$8,000 for a new total of \$22,910, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 97-0881 was unanimously adopted.

Approved November 10, 1997

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR RAPAICH:

RESOLVED, that Resolution 97-0470 to Little Falls Machine, Inc., for furnishing repair service and repair parts for Falls plows and wings be amended to increase the amount by \$6,390 for a new total of \$15,585, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 97-0882 was unanimously adopted.  
Approved November 10, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that R.L. Polk and Company be and hereby is awarded a contract for furnishing and delivering 33 directories for the various departments/divisions in accordance with specifications on its low specification bid of \$7,100.94, terms net 30, FOB shipping point, various funds, dept./agencies, organizations, and objects.

Resolution 97-0883 was unanimously adopted.  
Approved November 10, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Minnesota Outdoor Recreation be and hereby is awarded a contract for furnishing and delivering O.E.M. replacement parts and repairs for John Deere lawn care tractors and equipment for the fleet services division in accordance with specifications on its low specification bid of \$7,325, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 97-0884 was unanimously adopted.  
Approved November 10, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Resolution 97-0713 to Hallett Dock Company for furnishing Class 5 limestone be amended to increase the amount by \$6,500 for a new total of \$27,982.55, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1997, Object C702.

Resolution 97-0889 was unanimously adopted.  
Approved November 10, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that US West Communications, Inc., be and hereby is awarded a contract for furnishing the establishment of frame relay communications between city hall data processing division and various remote locations within the city of Duluth for the data processing division in accordance with specifications on its low specification bid of \$7,018.37, terms net 30, FOB destination, payable out of various funds, various dept./agencies, various organizations, various objects.

Resolution 97-0890 was unanimously adopted.  
Approved November 10, 1997  
GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of traffic maintenance person which were approved by the civil service board on October 7, 1997, and which are filed with the city clerk as Public Document No. 97-1110-17, are approved.

Resolution 97-0842 was unanimously adopted.

Approved November 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

ALCOHOLIC BEVERAGE BOARD

Ronald McKinnon and David A. Nyquist for terms expiring October 31, 2000.

Resolution 97-0865 was unanimously adopted.

Approved November 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

WOMEN'S COMMISSION

Sharon Finch and Sharon Sanders for terms expiring September 17, 2000.

Resolution 97-0866 was unanimously adopted.

Approved November 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

DULUTH PUBLIC ARTS COMMISSION

Adu Gindy, James D. McManus and Charles R. Salmela for terms expiring September 30, 2000.

Resolution 97-0888 was unanimously adopted.

Approved November 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 97-1110-18, with Melander, Melander and Schilling Architects, Inc., for design services related to the development of the master plan for Bayfront Festival Park through the schematic design phase and stage design work through the construction phase in the amount of \$39,150, \$24,000 payable from Fund 450, Agency 015, Org. 1997, Obj. C715; and \$15,150 payable from Fund 450, Agency 015, Org. 1996, Obj. C602.

Resolution 97-0845 was unanimously adopted.

Approved November 10, 1997

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Resolution 97-0868, by Councilor Prettner Solon, accepting easement from Lake Superior Paper Industries for the Keene Creek Trail, was introduced for discussion.

Councilor Hogg moved to amend the resolution to add the following paragraph:

"RESOLVED FURTHER, that the acceptance of this easement by the city council is subject to the condition that such easement shall not be open for use by motorized vehicles without authorization of the city council," which motion was seconded for discussion.

Councilor Hogg expressed concern over expanding the trail system and felt the city needs to prohibit the use of motorized vehicles on these trails.

Councilor Hogg's amendment unanimously carried.

Resolution 97-0868, as amended, was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the city of Duluth does hereby accept an easement in the form of that on file in the office of the city clerk as Public Document No. 97-1110-19 from Lake Superior Paper Industries over a portion of that property in St. Louis County, Minnesota, described as the north ½ of Section 18, Township 49 North, Range 14 West of the Fourth Prime Meridian as described in said document for the construction of the Keene Creek Trail.

RESOLVED FURTHER, that the acceptance of this easement by the city council is subject to the condition that such easement shall not be open for use by motorized vehicles without authorization of the city council.

Resolution 97-0868, as amended, was unanimously adopted.

Approved November 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on September 18, 1995, the city council approved Resolution No. 95-0843 granting a special use permit to Stephen E. Paulson for a mini storage facility in an "S" suburban zone on property described as: all that part of the NW1/4 of the SW1/4 of the SW1/4, Section 5, Township 50 North, Range 14 West, of the Fourth Principal Meridian, lying southerly of the public highway as now existing, according to the United States government survey thereof, situated in St. Louis County, Minnesota, containing nine acres more or less and located at 4514 Rice Lake Road, which special use permit was amended pursuant to Resolution No. 96-0921 on November 12, 1996; and

WHEREAS, Steven E. Paulson has submitted to the city council a request for an amendment to said special use permit for expansion of said mini storage facility; and said permit application was duly referred to the city planning commission for a study, report and public hearing and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that the above referenced special use permit is hereby amended to allow for the addition of an additional storage building on the above described property, as identified on Public Document No. 97-1110-20.

Resolution 97-0869 was unanimously adopted.

Approved November 10, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0870, by Councilor Prettner Solon, granting a special use permit to Kenneth and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Mona Knutson for a bed and breakfast inn for property located at 2215 East Second Street, was introduced for discussion.

Councilor Prettner Solon moved to table the resolution for a committee meeting on November 17, which motion was seconded and unanimously carried.

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Resolution 97-0871, by Councilor Prettner Solon, amending the Spirit Mountain recreation area master plan, was introduced for discussion.

Councilor Prettner Solon moved to table the resolution for a committee meeting and a public hearing on November 24, which motion was seconded and unanimously carried.

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a sewer line easement described on Public Document No. 97-1110-21 across property located at 2909 Jefferson Street legally described as: Part of Block 40, Harrison's Division of Duluth and part of Block 21, Rearrangement of part of East Duluth and First Addition to East Duluth; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its meeting on October 22, 1997.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the easement described above and as more particularly described on Public Document No. 97-1110-21.

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

Resolution 97-0872 was unanimously adopted.

Approved November 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city council did, on May 18, 1981, adopt Resolution No. 81-0315, granting to The Great Duluth Broadcasting Co. (KQDS) a special use permit for the construction and operation of a communication tower and equipment building located at 1603 North First Avenue West, said property being legally described as: The SE $\frac{1}{4}$  of SW $\frac{1}{4}$  of SE $\frac{1}{4}$ , Section 21, Township 50 North, Range 14 West, 4th PM; and

WHEREAS, KQDS, Inc., has submitted to the city council a request for an amendment to said special use permit to replace an existing 500 foot communication tower with a 789 foot tower on said property; and said permit application was duly referred to the city planning commission for a study, report and public hearing and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that special use permit granted to KQDS, Inc., pursuant to Resolution No. 81-0315 is hereby amended to allow for replacement of an existing 500

foot communication tower with a 789 foot tower, located on the above described property on the condition that the tower be constructed and maintained in accordance with plans and drawings identified as Public Document No. 97-1110-22.

Resolution 97-0874 was unanimously adopted.

Approved November 10, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0876, by Councilor Prettner Solon, authorizing DEDA to condemn certain property for the Oneota III redevelopment project, was introduced for discussion.

Councilor Prettner Solon stated that new information has come forward and that the resolution should be referred back to the administration, since the owner has been given permission to remain on that property for the rest of his life.

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

Ralph Anderson, an owner of one of the affected parcels, stated that the property owners do not like the word "condemnation and seizure," as the paper states. He said he is unaware of the immediate need for the property. Mr. Anderson requested the council to table the resolution to give the property owners time to relocate.

Rogus Ternes, another owner of one of the affected parcels, stated that he has been in the well drilling business there for many years and has five rigs still working. He questioned why the city would want his land now. Mr. Ternes said he needs the land for repairing and storing his rigs.

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

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BY COUNCILOR PRETTNER SOLON:

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

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

WHEREAS, it is consistent with the purpose of this governing unit to encourage employment and increase tax base.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports this application for funding on behalf of GPM, Inc.

Resolution 97-0877 was unanimously adopted.

Approved November 10, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0895, by Councilor Keenan, requesting the city to implement certain policies relating to sidewalk snow removal, was introduced for discussion.

Councilor Keenan moved to amend the resolution by adding the words "local streets and to" in the fourth paragraph, subparagraph (a), second sentence, after the words "First priority should be assigned to," which motion was seconded and unanimously carried.

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

Frank Blatnik felt the council has not had enough time to read, study and hear from people on this issue.

Clayt Kruger voiced support for the resolution but feels the city does a poor job of shoveling their own property in neighborhoods. He said people will not shovel their sidewalks if the city does



not shovel their own. Mr. Kruger felt the only way the city will move on this issue is to have a tragedy happen.

Bonnie Fuller Kask, member of the Duluth Pedestrian Bicycle and Transit Coalition and chairperson of the Chester Park Elementary School Safety Committee, supported the resolution as this is a safety issue for children; one of the most important issues for the city. She stated that one of the biggest problems is when the snowplows push the snow onto the boulevards making it hard for the sidewalks to be shoveled and the kids end up walking in the street. Ms. Fuller Kask stated that she has received letters of support of the ordinance from several elementary and middle school principals and PTSA presidents stating their concern for children walking in the streets on their way to and from school.

Robert Morrison, school crossing guard at Chester Park and Woodland schools, stated that the snow banks become so tall that the students have to climb over them to get to the intersection and he fears that the students will fall into the traffic lanes.

Rosie Loeffler Kemp, Duluth Parent Teacher Student Association, supported the resolution and urged councilors to support the ordinance to keep children safe. She said the mountains of snow at intersections are not safe while waiting for buses and that the school crossing guards are also in danger.

Scott Anderson, commission on disabilities president, supported the resolution. He said that people, disabled or not, find it hard to travel around the city in the winter because of the snow covered sidewalks.

Councilor Keenan said that the city needs to move forward with affordability and practicality on this issue. He stated that by passing the resolution it sends a message to the administration that the city snow removal policy is important to the community.

Councilor Rapaich said that she has had calls from senior citizens supporting the resolution, but they are concerned that they will not be able to have their sidewalks shoveled in a timely manner.

Councilor Hogg stated his concern of the impact on senior citizens and other people who may have to find someone else to shovel their sidewalks because they are unable to do so.

Councilor Hales cautioned the council to move slowly on this issue as the financial cost to this policy could be very high.

Councilor Talarico reviewed that Dick Larson, public works department director, along with Administrative Assistant Nollenberger's agreement, are committed to try within the budget that is set for public works to make the resolution work, subject to affordability and practicality.

Councilor Prettner Solon moved to call the question on the resolution, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Hogg -- 1

Resolution 97-0895, as amended, was adopted as follows:

BY COUNCILOR KEENAN:

WHEREAS, the city council has been interested in the removal of snow from city sidewalks on a more aggressive and determined basis than in prior years; and

WHEREAS, the city administration has indicated a willingness to pursue this issue and has outlined an increased program of sidewalk snow removal in the 1998 budget; and

WHEREAS, snow deposited on sidewalks by city snow plows is an impediment to pedestrians; and

WHEREAS, it is the responsibility of the city to remove snow it has deposited on sidewalks.

NOW, THEREFORE, BE IT RESOLVED, that the city council strongly encourages the city to implement the following administrative policies for prompt removal of snow on sidewalks:

(a) The city should set priorities for removal of snow it has plowed onto sidewalks. First priority should be assigned to local streets and to arterials in school zones, where removal by 7:00 a.m. on school days is encouraged. Other areas to be given high priority should include heavily trafficked streets (Superior, Grand Avenue, etc.) and those that receive heavy pedestrian traffic and areas where pedestrians have no alternative but to use the sidewalk (such as overpasses over the interstate at Fifth Avenue West and Lake Avenue);

(b) The city should examine its snow plowing policy and seek to curtail or modify those procedures that deposit plowed snow on sidewalks and adopt those that spare the sidewalks. Procedures to be examined should include, but should not be limited to, plowing snow to the center of the street for subsequent removal rather than onto the sidewalk, plowing less than the full width of the street in order to preserve the sidewalk for pedestrians, leasing smaller plows that might more appropriately fit some of our smaller streets and nearly eliminating the practices of topping and benching;

(c) The city should coordinate a program whereby individuals who are incapable of removing snow can receive voluntary assistance;

(d) The city should conduct systematic inspections after all significant snowfalls (greater than two inches) of sidewalks on certain arterial and collector streets and sidewalks in close proximity to elementary schools. Snow removal inspections for all other sidewalks should be made in response to complaints;

(e) The city should give property owners only one notice per winter prior to the initiation of an enforcement action. Upon determination that the property owner did not clear their sidewalk within 24 hours, a contractor should be assigned from a rotating list to clear the sidewalk of snow.

Resolution 97-0895, as amended, was unanimously adopted.

Approved November 10, 1997

GARY L. DOTY, Mayor

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### **ORDINANCE TABLED**

BY COUNCILOR TALARICO

97-030 - AN ORDINANCE PERTAINING TO THE REMOVAL OF SNOW FROM PUBLIC SIDEWALKS WITHIN THE CITY; AMENDING SECTIONS 45-56, 45-57, 45-59, 45-61 AND 45-62, AND REPEALING SECTIONS 45-58, 45-60, 45-63, 45-64, 45-65, 45-66, 45-67, 45-68, 45-69, 45-70, 45-71 AND 45-72 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Councilor Keenan moved to amend Section 45-57 of the ordinance to read as follows:

"Sec. 45-57. Duty of abutters--within 24 hours.

All abutters shall remove or cause to be removed sufficient snow falling on any public sidewalk abutting such parcel of land within 24 hours after the end of every snowfall to create a clear path of a minimum width of 36 inches," which motion was seconded for discussion.

Councilor Hogg questioned if the words "sufficient" and "36 inches" are enforceable standards, and City Attorney Dinan replied that these requirements are objective standards which are easily measured.

Councilor Talarico stated that the city will have to rely on neighborhood policing to monitor the shoveling on the city blocks.

Councilor Keenan's amendment unanimously carried.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Councilor Keenan moved to amend the ordinance by adding a new Section 45-57.1, to read as follows:

"Sec. 45-57.1. City responsible for removal of certain snow from sidewalks.

If, in the course of plowing snow from any street, avenue, alley, or highway, the city deposits snow on any public sidewalk, it shall have the responsibility to remove such snow from that sidewalk," which motion was seconded for discussion.

Mr. Nollenberger reviewed that this amendment is one of intent only, and that there would be no criminal prosecution of city employees or councilors if the snow was not removed by the city from the sidewalks.

To Councilor Hogg's questioning, Mr. Dinan replied that there are no penalties or time lines in this new section, and that it is a statement of intent that the city will remove snow from sidewalks when it is responsible for plowing the snow onto the sidewalk.

Councilor Hogg said that the council has already passed a resolution stating the intent to the administration and added that he would not support the ordinance.

Councilor Prettner Solon voiced her support for the amendment as a tool that the citizens and the council can use to make sure the city is responsible for their actions.

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

Councilor Keenan's amendment carried upon the following vote:

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

Nays: Councilors Hales, Hogg and Young -- 3

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At this time, 9:30 p.m., President Hardesty left her seat.

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Councilor Keenan moved to amend Section 45-61 of the ordinance to reinstate the word "shall" after the words "under the circumstances," which motion was seconded and carried upon the following vote:

Yeas: Councilors Hales, Hogg, Keenan, Prettner Solon, Rapaich, Talarico and Young -- 7

Nays: Councilor Bohlmann -- 1

Absent: President Hardesty -- 1

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At this time, 9:35 p.m., President Hardesty returned to her seat and Councilor Rapaich left her seat.

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

Yeas: Councilors Bohlmann, Hales, Hogg, Talarico and Young -- 5

Nays: Councilors Keenan, Prettner Solon and President Hardesty -- 3

Absent: Councilor Rapaich -- 1

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At this time, 9:40 p.m., Councilor Rapaich returned to her seat.

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BY COUNCILOR TALARICO:

WHEREAS, by Resolution of Intent numbered 97-0799 the council did request the administration to prepare plans and specifications for the permanent improvement including excavation,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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gravel base and a bituminous surface on Second Alley from 14th to 15th Avenue East (City Job Number 9014RS97); and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board, the special assessment board has submitted its report to this council, pursuant to Section 45-79, Duluth City Code of 1959, and the said board, at the direction of the mayor, has furnished this council with information as required by Section 45-80 of the Duluth City Code of 1959.

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made, that the estimated total cost of said improvement as estimated by the city engineer is \$33,000 payable from the Special Assessment Fund 810, Agency 038, Organization 5305, Object 5530; and reimbursed as follows: \$5,000 P.I. interest in share and \$28,000 assessable and that \$28,000 of the cost of said improvement be defrayed by special assessment against the land and premises specially benefited, which land and premises are described in the report of the special assessment board and which report is on file in the office of the city clerk as Public Document No. 97-1110-24; and which description is hereby incorporated herein by reference to said Public Document No. 97-1110-24; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 97-0873 was unanimously adopted.

Approved November 10, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to reconstruct lift station No. 3; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to prepare the design specifications, opinion of problem cost and for construction engineering assistance; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$40,785, will be payable from the Sewer Construction Bond Fund 531, Dept./Agency 500, Object 5532.

Resolution 97-0891 was unanimously adopted.

Approved November 10, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Resolution 97-0261 to FEMR (fire and emergency management resources) for furnishing professional chemistry training for the hazardous materials response team be amended to increase the amount by \$8,000 for a new total of \$17,468.50, payable out of General Fund 100, Dept./Agency 100, Organization 1505, Object 5319.

Resolution 97-0879 was unanimously adopted.

Approved November 10, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, no parking is hereby established for both sides of Arlington Avenue from 800 feet south of Arrowhead Road to Arrowhead Road.

Resolution 97-0885 was unanimously adopted.

Approved November 10, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the city of Duluth is hereby authorized to enter into a grant agreement with Minnesota department of public safety crime victim services crime victim and witness council for the program entitled emergency fund for crime victims.

RESOLVED FURTHER, that Mayor Gary L. Doty is hereby authorized to execute and sign such grant agreement and amendments as are necessary to implement the program on behalf of the city of Duluth.

RESOLVED FURTHER, that funds received by the city under such grant agreement shall be deposited in the General Fund 100-010-1104.

Resolution 97-0893 was unanimously adopted.

Approved November 10, 1997

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES  
ORDINANCE TABLED**

BY COUNCILOR TALARICO

97-030 (9353) - AN ORDINANCE PERTAINING TO THE REMOVAL OF SNOW FROM PUBLIC SIDEWALKS WITHIN THE CITY; AMENDING SECTIONS 45-56, 45-57, 45-59, 45-61 AND 45-62, AND REPEALING SECTIONS 45-58, 45-60, 45-63, 45-64, 45-65, 45-66, 45-67, 45-68, 45-69, 45-70, 45-71 AND 45-72 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Talarico moved to remove the ordinance from the table, which motion was seconded and carried upon the following vote:

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

Nays: Councilors Bohlmann, Hales, Hogg and Young -- 4

Councilor Hogg voiced concern that if the city does not shovel the sidewalks they are responsible for without an enforcement policy in place, there is no incentive for the residents to shovel their sidewalks.

Mr. Dinan stated that in the past, the city has not enforced the ordinance and assessing penalties if the sidewalks were not shoveled. He continued saying that by passing the resolution and the ordinance, there is a commitment from the city to shovel their own sidewalks and requiring property owners to do the same.

Councilor Talarico reminded councilors that the city council will be responsible for imposing the assessment fee and the collection fee on the property owner, and if the city has not been shoveling their sidewalks, it would be unlikely the council would impose a fee onto the property owner.

Councilor Hogg moved to amend the ordinance by deleting Section 45-62, which was seconded and failed upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg and Young -- 4

Nays: Councilors Keenan, Prettner Solon, Rapaich, Talarico and President Hardesty -- 5

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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

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

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

Nays: Councilors Bohlmann, Hales, Hogg and Young -- 4

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The following ordinances were read for the second time:

BY COUNCILOR YOUNG

97-037 - AN ORDINANCE ADDING A NEW ARTICLE XXVII TO CHAPTER 2 OF THE CITY CODE ESTABLISHING A PAYMENT IN LIEU OF TAXES BOARD.

Councilor Young moved to table the ordinance for a committee meeting on November 24, which motion was seconded and unanimously carried.

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BY COUNCILOR HALES

97-035 - AN ORDINANCE INCREASING THE MAXIMUM FEES WHICH MAY BE CHARGED BY EMERGENCY WRECKER SERVICES, AMENDING SECTION 33-259 OF THE CITY CODE.

Councilor Hales moved to table the ordinance for more information, which motion was seconded and unanimously carried.

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BY COUNCILOR HALES

97-036 - AN ORDINANCE ESTABLISHING A USER CHARGE FOR THE EXCESSIVE CONSUMPTION OF POLICE SERVICES, ADDING A NEW ARTICLE III TO CHAPTER 40 OF THE CITY CODE.

Councilor Hales moved to table the ordinance for more information, which motion was seconded and unanimously carried.

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The meeting was adjourned at 10:30 p.m.

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

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**ORDINANCE NO. 9353**

BY COUNCILOR TALARICO:

AN ORDINANCE PERTAINING TO THE REMOVAL OF SNOW FROM PUBLIC SIDEWALKS WITHIN THE CITY; AMENDING SECTIONS 45-56, 45-57, 45-59, 45-61 AND 45-62, AND REPEALING SECTIONS 45-58, 45-60, 45-63, 45-64, 45-65, 45-66, 45-67, 45-68, 45-69, 45-70, 45-71 AND 45-72 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 45-56 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 45-56. Abutter defined.

For the purposes of this Division, the word abutter shall mean any person who owns, leases or otherwise lawfully occupies any parcel of land which abuts any public sidewalk with the city.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Section 2. That Section 45-57 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 45-57. Duty of abutters--within 24 hours.

All abutters shall remove or cause to be removed sufficient snow falling on any public sidewalk abutting such parcel of land within 24 hours after the end of every snowfall to create a clear path of a minimum width of 36 inches.

Section 3. That a new Section 45-57.1 be added to the Duluth City Code, be added to the Duluth City Code, 1959, to read as follows:

Sec. 45-57.1. City responsible for removal of certain snow from sidewalks.

If, in the course of plowing snow from any street, avenue, alley or highway, the city deposits snow on any public sidewalk, it shall have the responsibility to remove such snow from that sidewalk.

Section 4. That Section 45-59 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 45-59. Sand to be sprinkled on sidewalks when ice cannot be readily removed.

All abutters shall sprinkle sand and/or a chemical deicer other than salt upon any ice forming upon any public sidewalks abutting upon their property when such ice cannot be readily removed, so that such sidewalks shall be made reasonably safe for the use of pedestrians.

Section 5. That Section 45-61 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 45-61. Removal by city when owner fails to do so--authorized.

The director of public works, either by contract to the lowest responsible bidder or by such other method as may, in his judgment, seem best adapted for the purpose under the circumstances shall cause all snow not removed by the abutter, immediately upon the default of such abutter, to be removed from such sidewalks.

Section 6. That Section 45-62 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 45-62. Same--Assessment of cost.

The director of the public works department shall keep an accurate account of the expense of removing snow where the abutter has failed to remove such snow. At the close of the season, he shall report the same to the city council, which shall thereupon cause an assessment to be made and levied against the real property abutting upon such sidewalks for the purpose of defraying the expense and cost of such snow removal. Such assessment shall be enforced and collected in accordance with the procedure prescribed by the Charter, this Code and other ordinances relating to the enforcement and collection of special assessments for local improvements. To each assessment a collection fee may be added in an amount set by city council resolution to reimburse the city its administrative assessment costs.

Section 7. That Section 45-58, 45-60, 45-63, 45-64, 45-65, 45-66, 45-67, 45-68, 45-69, 45-70, 45-71 and 45-72 of the Duluth City Code, 1959, as amended, are repealed in their entirety.

Section 8. That the city clerk is directed to eliminate the designations of Division 1 and Division 2 within Article VI of Chapter 45, Duluth City Code, 1959, as amended.

Section 9. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 18, 1997)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Yeas: Councilors Keenan, Prettner Solon, Rapaich, Talarico and President Hardesty -- 5  
Nays: None -- Councilors Bohlmann, Hales, Hogg and Young -- 4

ATTEST:  
JEFFREY J. COX, City Clerk

Passed November 10, 1997  
Approved November 10, 1997  
GARY L. DOTY, Mayor

- - -



**OFFICIAL PROCEEDINGS**

Special meeting of the Duluth City Council held on Thursday, November 20, 1997, 5:00 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-1120-01 Evensen Dodge, Inc., submitting: (a) Presale analysis; (b) Official statement; (c) Bid results pertaining to general obligation improvement refunding bonds and equipment certificates of indebtedness, series 1997F and 1997G. -- Received

- - -

**MOTIONS AND RESOLUTIONS**

Resolution 97-0914, providing for the issuance, sale and delivery of \$2,455,000 general obligation improvement refunding bonds, Series 1997F; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof; and Resolution 97-0915 providing for the issuance, sale and delivery of \$1,960,000 general obligation equipment certificates of indebtedness, Series 1997G; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof, by Councilor Hogg, were introduced for discussion.

Kathy Kardell, Evensen Dodge, reviewed the contents of the presale analysis (Public Document No. 97-1120-01(a)), noting the results of the bidding for these issues.

Todd Torvinen, finance director, reviewed that the change of five bases points will yield a savings of approximately \$500 per year, per million of bonds issued.

Resolution 97-0914 was adopted as follows:

BY COUNCILOR HOGG:

BE IT RESOLVED by the City Council of the City of Duluth, Minnesota (the "City"), as follows:  
Section 1. Bond Purpose and Authorization.

1.01 The City has previously issued its \$2,050,000 General Obligation Improvement Bonds dated October 1, 1989 (the "1989 Bonds"), and its \$2,735,000 General Obligation Improvement Bonds dated November 1, 1990 (the "1990 Bonds") (the 1989 Bonds and the 1990 Bonds are collectively referred to as the "Prior Bonds"). The Prior Bonds were authorized and issued pursuant to the City Charter and Minnesota Statutes, Chapter 475.

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the "Act") and Section 475.67, Subdivisions 1 through 4 of the Act, the City is authorized to issue and sell its general obligation bonds to refund obligations and the interest thereon before the due date of the obligations, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 It is necessary and desirable that in order to reduce debt service costs the City issue \$2,455,000 General Obligation Improvement Refunding Bonds, Series 1997F (the "Bonds"), to refund that portion of the Prior Bonds maturing on and after February 1, 1999 (the "Refunded Bonds"), of which \$2,415,000 in principal amount is prepayable on February 1, 1998 (the "Redemption Date").

1.04 The City Council has solicited proposals for the sale of the Bonds in the principal amount of \$2,455,000 and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of Piper Jaffray, Inc.,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$2,438,924.38, plus accrued interest on the total principal amount from December 1, 1997, to the date of delivery of the Bonds and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The Mayor and the City Clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's proposal. The City Treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated December 1, 1997, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates set forth on Exhibit A:

Year	Amount	Interest Rate
1999	\$320,000	See Exhibit A
2000	335,000	
2001	325,000	
2002	325,000	
2003	320,000	
2004	320,000	
2005	315,000	
2006	195,000	

2.02 The Bonds are not subject to redemption prior to maturity.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 1998. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 (a) The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

(b) The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual or facsimile signature of the City Clerk in substantially the form set forth in

Section 2.11. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 (a) In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City has previously agreed to the applicable provisions set forth in the Blanket Issuer Letter of Representations which has been executed by the City and DTC (the "Representation Letter").

(b) All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

(c) Additional matters with respect to, among other things, notices, consents and approvals by Bond holders and payments on the Bonds are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

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

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of

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America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

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

CITY OF DULUTH  
GENERAL OBLIGATION IMPROVEMENT REFUNDING BOND  
SERIES 1997F

R-\_\_\_ \$\_\_\_\_\_

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	February 1, _____	December 1, 1997	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from December 1, 1997, 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, 1998. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

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This Bond is one of a series issued by the City in the aggregate amount of \$2,455,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475 and all other laws thereunto enabling, and pursuant to authorizing resolutions adopted by the governing body of the City on November 20, 1997 (the "Resolution"), and is issued for the purpose of providing money to refund the outstanding principal amount of the \$2,050,000 General Obligation Improvement Bonds dated October 1, 1989, and the \$2,735,000 General Obligation Improvement Bonds dated November 1, 1990. The Bonds are payable in part from special assessments levied against properties specially benefitted by local improvements and in part from ad valorem taxes. The principal and interest on the Bonds will be payable from a special fund of the City entitled "1997 Improvement Refunding Bond Account" in the Special Assessment Debt Service Fund.

The Bonds are not subject to redemption prior to maturity.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and 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 facsimile signatures of the Mayor and the City Clerk.

Date of Authentication: \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

**BOND REGISTRAR'S AUTHENTICATION CERTIFICATE**

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

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION  
Bond Registrar

By \_\_\_\_\_  
Authorized Representative

**BOND COUNSEL OPINION**

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

\_\_\_\_\_  
City Clerk

**REGISTRATION CERTIFICATE**

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

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
12/__/97	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	

**ASSIGNMENT**

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

\_\_\_\_\_  
(Name and Address of Assignee)

\_\_\_\_\_  
Social Security or Other

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\_\_\_\_\_ Identifying Number of Assignee

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

Dated: \_\_\_\_\_.

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

Signature Guaranteed:

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

Section 3. Covenants, Accounts and Representations.

3.01 (a) The Bonds are payable from the 1997 Improvement Refunding Bond Account (the "Debt Service Fund") hereby created within the City's Special Assessment Debt Service Fund, and the proceeds of special assessments described in the Prior Resolutions, defined in Section 3.03, are pledged to the Debt Service Fund. The allocations of the Bonds, and debt service therefor, for the refunding of the 1989 Bonds and the 1990 Bonds are set forth on Exhibit A-1.

(b) The proceeds of the Bonds not including (i) any capitalized interest financed from Bond proceeds; (ii) any amount over the minimum purchase price of the Bonds paid by the Purchaser as additional interest pursuant to Minnesota Statutes, Section 475.56; (iii) accrued interest; and (iv) any proceeds to pay costs of issuance of the Bonds, paid by the Purchaser upon closing and delivery of the Bonds are hereby irrevocably appropriated and allocated to the debt service funds heretofore established for the 1989 Bonds and the 1990 Bonds (the "Prior Debt Service Funds") in amounts which together with available funds therein shall be used solely to redeem the Prior Bonds on the Redemption Date. Upon redemption of the Prior Bonds on the Redemption Date, the Prior Debt Service Funds shall be terminated, and all monies remaining therein not required to refund the Prior Bonds shall be transferred to the Debt Service Fund. The City Treasurer is authorized to pay the costs of issuance of the Bonds.

(c) There is hereby appropriated to the Debt Service Fund any amount over the minimum purchase price of the Bonds paid by the Purchaser and all accrued interest paid by the Purchaser upon closing and delivery of the Bonds.

3.02 The City Council hereby declares that it has assessed against benefitted property not less than 20% of the cost of the projects financed by the Prior Bonds. The City further declares

that it has completed the special assessment process, including any and all supplemental assessments or reassessments that were required to lawfully assess the benefitted property.

3.03 It is hereby determined that upon the receipt of proceeds of the Bonds (the "Proceeds") for payment of the Refunded Bonds that an irrevocable appropriation to the Prior Debt Service Funds shall have been made within the meaning of Section 475.61, Subdivision 3 of the Act and the Clerk is hereby authorized and directed to certify such fact to and request the County Auditor to cancel any and all tax levies made by the resolutions authorizing and approving the Refunded Bonds adopted September 7, 1989, and adopted November 1, 1990(the "Prior Resolutions").

3.04 (a) It is hereby determined that the estimated collections of special assessments levied against benefitted properties pledged for payment of the portion of the Bonds allocable to the refunding of the 1989 Bonds as set forth on Exhibit A-1 will produce sums not less than 5% in excess of the amounts needed to meet when due the principal and interest payments on such portion of the Bonds, and accordingly, no tax is levied by this resolution for that purpose.

(b) 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 the amounts, together with the estimated collection of special assessments levied against benefitted properties pledged for payment of the portion of the Bonds allocable to the refunding of the 1990 Bonds as set forth on Exhibit A-1, are sufficient to produce sums not less than 5% in excess of the amounts of principal and interest on the Refunding Bonds as such principal and interest respectively become due.

(c) All proceeds of said special assessments and taxes set out in Sections 3.04(a) and (b) are hereby appropriated and shall be paid when collected into the 1997 Improvement Refunding Bond Account within the Special Assessment Debt Service Fund. Said taxes shall be irrepealable until the Bonds and interest are fully paid, except that if the City Council in any year shall make an irrevocable appropriation to said account of monies actually on hand (excluding the proceeds of the special assessments), 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.

(d) Under the provisions of Minnesota Statutes, Sections 475.61 and 475.74, the City's liability on the Bonds is not limited to the foregoing sources of payment, and the City Council will and shall levy upon all taxable property within the corporate limits of the City, and cause to be extended, assessed and collected, any taxes found necessary for full payment of the principal and interest, without limitation as to the rate or amount. If any payment of principal or interest on the Bonds shall become due when there is not sufficient money in the Debt Service Fund to pay the same, the Treasurer shall pay such principal or interest from the general fund of the City, and the general fund shall be reimbursed for such advances out of the proceeds of the taxes levied by this Resolution, when collected.

#### Section 4. Refunding, Findings, Prepayment of Refunded Bonds.

4.01 It is hereby found and determined that based upon information presently available from the City's financial advisers, the issuance of the Bonds is consistent with covenants in the Prior Resolutions and is necessary and desirable for the reduction of debt service cost to the City.

4.02 It is hereby found and determined that the Proceeds and other available funds of the City will be sufficient to prepay all of the principal of and interest on the Refunded Bonds on the Redemption Date.

4.03 The Refunded Bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of Notices of Call for Redemption attached hereto as Attachment A and Attachment B, which terms and conditions are hereby



approved and incorporated herein by reference. The Clerk or his designee is hereby authorized and directed to forthwith, no later than 30 days prior to the Redemption Date, to send written notice of call to the registered owners and paying agent of the Refunded Bonds and to publish notice as provided in the Prior Resolutions.

4.04 When the principal of the Refunded Bonds and all interest thereon have been discharged as provided in this Section, all pledges, covenants and other rights granted by this Resolution to the holders of the Refunded Bonds shall cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal and interest on the Refunded Bonds shall remain in full force and effect. The City may discharge all Refunded Bonds by depositing with the Bond Registrar on or before the Redemption Date a sum sufficient for the payment thereof in full. If any Bond should not be paid when due, it shall nevertheless be discharged by depositing with the Bond Registrar a sum sufficient for the payment thereof in full with interest accrued to the Redemption Date.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the Mayor and the Clerk are hereby authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the City Clerk.

Section 6. Tax Covenants.

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

6.02 (a) The proceeds of the Refunded Bonds have been totally expended for the governmental purpose for which issued; the gross proceeds of the Bonds will, within 60 days of the date of issuance of the Bonds, have been totally expended for the purpose of refunding the outstanding principal amount of the Refunded Bonds and interest thereon and paying costs of issuance of the Bonds. Therefore, no rebate of arbitrage profit is required under the Internal Revenue Code of 1986, as amended (the "Code").

(b) In addition, the proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code.

(c) The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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(d) The City expects that all proceeds of the Bonds will be expended within six months of the date of issue of the Bonds.

Resolution 97-0914 was unanimously adopted.

Approved November 20, 1997

GARY L. DOTY, Mayor

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Resolution 97-0915 was adopted as follows:

BY COUNCILOR HOGG:

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

Section 1. 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. 97-0859 declaring the intention of the City to issue such certificates of indebtedness in the amount of approximately \$1,960,000 to finance the purchase of capital equipment authorized by the Act. It is hereby certified that the amount of the certificates of indebtedness to be issued by the City pursuant to this Resolution is less than 0.25 percent of the market value of the taxable property of the City.

1.03 The City Council hereby determines that it is necessary and expedient to issue \$1,960,000 General Obligation Equipment Certificates of Indebtedness, Series 1997G, of the City (the "Certificates") to provide funds to purchase capital equipment authorized by the Act, to pay certain expenses incurred in the issuance of the Certificates and to pay a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56. The capital equipment to be purchased with the proceeds of the Certificates will have a useful life of more than five years.

1.04 The City Council has solicited proposals for the sale of the Certificates in the principal amount of \$1,960,000 and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of FBS Investment Services, Inc., an operating division of U.S. Bancorp Investments, Inc., of Minneapolis, Minnesota (the "Purchaser"), to purchase the Certificates at a cash price of \$1,950,200, plus accrued interest on the total principal amount from December 23, 1997, to the date of delivery of the Certificates and upon condition that the Certificates mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The Mayor and the City Clerk are authorized and directed to execute on the part of the City a contract for the sale of the Certificates in accordance with the Purchaser's proposal. The City Treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms, Execution and Delivery of the Certificates.

2.01 The Certificates to be issued hereunder shall be dated December 23, 1997, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Certificates shall mature on December 23 in the respective years and amounts stated and shall bear interest at the annual rates set forth on Exhibit A attached hereto:

Year	Amount	Interest Rate
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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1998	\$360,000	See Exhibit A
1999	375,000	
2000	390,000	
2001	410,000	
2002	425,000	

2.02 The Certificates are not subject to redemption and prepayment before maturity.

2.03 The interest shall be payable semiannually on June 23 and December 23 in each year (each referred to herein as an "Interest Payment Date"), commencing June 23, 1998. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Certificates by check or draft mailed to the registered owners of the Certificates shown on the bond registration records maintained by the Bond Registrar at the close of business 15 days next preceding the Interest Payment Date (whether or not a business day) at such owners' addresses shown on such bond registration records.

2.04 The Certificates shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Certificates shall cease to be an officer before delivery of the Certificates, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Certificate, together with a certificate to be signed by the manual or facsimile signature of the City Clerk in substantially the form set forth in the form of the Certificate. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City Council hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Certificates (such bank or its successor is herein referred to as the "Bond Registrar"). No Certificate shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Certificate, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Certificates need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Certificate shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 (a) In order to make the Certificates eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City has previously agreed to the applicable provisions set forth in the Blanket Issuer Letter of Representations which has been executed by the City and DTC (the "Representation Letter").

(b) All of the Certificates shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Certificate registered in the name 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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of each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

(c) Additional matters with respect to, among other things, notices, consents and approvals by Certificate holders and payments on the Certificates are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Certificates and the registration of transfers of the Certificates entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Certificate at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Certificates of the like aggregate principal amount, as requested by the transferor.

2.08 Each Certificate delivered upon transfer of or in exchange for or in lieu of any other Certificate shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Certificate. Each Certificate shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Certificates called for redemption or to make any such exchange or transfer of the Certificates during the 15 days next preceding the date of the first publication of the notice of redemption in the case of a proposed redemption of the Certificates.

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

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

2.11 The Certificates shall be printed or typewritten in substantially the following form:

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

CITY OF DULUTH  
GENERAL OBLIGATION EQUIPMENT CERTIFICATE  
OF INDEBTEDNESS, SERIES 1997G

R-\_\_\_\_\_ \$\_\_\_\_\_

Interest  
Rate

Maturity Date

Date of Original Issue

CUSIP

%

December 23, \_\_\_\_\_

December 23, 1997

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from December 23, 1997, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on June 23 and December 23 of each year (each referred to herein as an "Interest Payment Date") commencing on June 23, 1998. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Certificate on the Interest Payment Date directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business 15 days preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Certificate, the presentation or surrender of this Certificate, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Certificate to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Certificate is one of a series issued by the City in the aggregate amount of \$1,960,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Sections 410.32 and 412.301 and Chapter 475, the City Charter and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on November 20, 1997 (the "Resolution"), and is issued for the purpose of providing money, together with other available funds, for the purchase of capital equipment. The City has levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls for the years and in the amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on the Certificates, as such principal and interest respectively come due. The Certificates are not subject to redemption and prepayment before maturity.

The Certificates of this series are issued as fully registered obligations without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Certificate is transferable by the registered owner hereof upon surrender of this Certificate for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City

shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Certificate, one or more new fully registered certificates in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Certificate, of the same maturity and bearing interest at the same rate.

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

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

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Certificate to be executed in its name by the facsimile signatures of the Mayor and the City Clerk.

Date of Authentication: \_\_\_\_\_  
Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

**BOND REGISTRAR'S AUTHENTICATION CERTIFICATE**

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

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION  
Bond Registrar

By \_\_\_\_\_  
Authorized Representative

**BOND COUNSEL OPINION**

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Certificates, dated as of the original date of delivery of and payment for the Certificate.

\_\_\_\_\_  
City Clerk

REGISTRATION CERTIFICATE

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

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
12/23/97	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	

ASSIGNMENT

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

\_\_\_\_\_  
(Name and Address of Assignee)

\_\_\_\_\_  
Social Security or Other

\_\_\_\_\_  
Identifying Number of Assignee

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

Dated: \_\_\_\_\_.

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

Signature Guaranteed:

\_\_\_\_\_  
(Bank, Trust Company, member of

National Securities Exchange)

Section 3. Covenants, Accounts and Representations.

3.01 The City has created a separate acquisition account within the Capital Equipment Account of the General Fund to which there shall be credited \$1,960,000, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, from the proceeds for the Certificates, together with any additional funds which may be available and are appropriated for the capital equipment purchase program. This account shall be used only to pay or reimburse other City funds or accounts for "capital equipment," as described in Minnesota Statutes, Section 412.301, with an expected useful life of at least five years, and costs of issuance of the Certificates, as such payments become due.

3.02 (a) There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than 5% in excess of the amounts of principal and interest on the Certificates as such principal and interest respectively become due as set forth on Exhibit A attached hereto.

(b) A separate debt service account is hereby created and designated as the "1997 G.O. Equipment Certificates Debt Service Account" (the "Debt Service Fund") within the City's debt service fund. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Certificates; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the Treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. Into the Debt Service Fund shall be credited all of the proceeds of the Certificates in excess of \$1,960,000, if any, plus the amount of accrued interest paid by the Purchaser upon closing and delivery of the Certificates.

3.03 If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Certificates, the Treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient. All proceeds of said taxes will be appropriated and paid when collected into the Debt Service Fund. Said taxes shall be irrevocable until the Certificates and interest are fully paid, except that if the City in any year shall make an irrevocable appropriation to said accounts of monies actually on hand, the City Clerk shall certify to the County Auditor of St. Louis County the fact and the amount thereof, and the County Auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

3.04 The full faith and credit and taxing power of the City are irrevocably pledged for the prompt and full payment of the Certificates and the interest thereon, in accordance with the terms set forth in this Resolution.

3.05 Proceeds of the Certificates on deposit in the acquisition account created in Section 3.01 and in the Debt Service Fund may, in the discretion of the City Treasurer, be invested in securities permitted by Minnesota Statutes, Section 475.66; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Certificates when due.

Section 4. Tax Covenants.

4.01 The City covenants and agrees with the holders of the Certificates that the City will (i) take all action on its part necessary to assure that the interest on the Certificates will be excluded



from gross income for federal income taxes including, without limitations, restricting, to the extent necessary, the yield on investments made with the proceeds of the Certificates and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Certificates to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Certificates and investment earnings thereon on certain specified purposes.

4.02 (a) No portion of the proceeds of the Certificates shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Certificates were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Certificates or \$100,000. To this effect, any proceeds of the Certificates and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Certificates) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

(b) In addition, the proceeds of the Certificates and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Certificates to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

(c) The City hereby covenants not to use the proceeds of the Certificates, or to cause or permit them to be used, in such a manner as to cause the Certificates to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 (a) Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Certificates, the following schedule will be met: (i) at least 15% of the gross proceeds of the Certificates will be allocated to expenditures for the governmental purpose of the Certificates within six months of the date of issue of the Certificates; (ii) at least 60% of such proceeds will be allocated for such purposes within the one year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18 month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Certificates, and that 100% of the available proceeds of the Certificates will be allocated within 30 months from the date of issue of the Certificates.

(b) The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

#### Section 5. Continuing Disclosure.

The City acknowledges that the Certificates are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Certificates. To provide for the public availability of certain information relating to the Certificates and the security therefor and to permit underwriters of the Certificates to comply with the Rule, which will

enhance the marketability of the Certificates, the Mayor and the Clerk are hereby authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the City Clerk.

Section 6. Certificates of Proceedings.

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

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

6.03 The Mayor and the City Clerk are hereby authorized and directed to certify that they have examined the Official Statement prepared and circulated in connection with the issuance and sale of the Certificates and that to the best of their knowledge and belief the Official Statement is a complete and accurate representation of the facts and representations made therein as for the date of the Official Statement.

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

Resolution 97-0915 was unanimously adopted.

Approved November 20, 1997

GARY L. DOTY, Mayor

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The meeting was adjourned at 5:20 p.m.

JEFFREY J. COX, City Clerk

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, November 24, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-1124-21 Damiano Center submitting communication pertaining to proposed CDBG Tenant's Union agreement amendment (97-0899R). -- Received

97-1124-22 Lake Superior Office Furniture, Inc., submitting communication pertaining to proposed Michigan Street realignment (97-0231R). -- Received

97-1124-20 United Way of Greater Duluth submitting communication pertaining to proposed ordinance establishing a payment in lieu of taxes board (97-037-O). -- Received

97-1124-23 The following submitting communications pertaining to proposed Spirit Mountain master plan (97-0871R): (a) Cindy Hale; (b) Lance G. Reasor; (c) St. Louis River Citizens Action Committee; (d) Dolly Schnell; (e) Spirit Mountain Cross Country Advisory Committee; (f) Kathleen E. Weimer. -- Received

97-1124-24 The following submitting communications pertaining to proposed special use permit to Kenneth and Mona Knutson for bed and breakfast property located at 2215 East Second Street (97-0870R): (a) Kathleen M. Carlson; (b) William and Arlys Goodnow; (c) Marty Mehling; (d) Ellen Sneve; (e) Philip and Mary Sneve. -- Received

97-1124-25 The following submitting communications pertaining to proposed designation of Lake Superior (97-0782R and 97-0924R): (a) Brian Fredrickson; (b) National Wildlife Federation, Great Lakes Natural Resource Center. -- Received

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**REPORTS OF OFFICERS**

97-1124-01 Assessor submitting letter of sufficiency regarding petition for construction of an alley ditch in Kingston Alley between 51st Avenue East and 52nd Avenue East. -- Received

97-1124-02 Building official submitting appeal of the board of zoning appeals' denial of the request to reduce the required parking spaces from 56 spaces to 18 spaces at 2427 West Fourth Street (ISD #709 for the Lincoln Park Youth Collaborative). -- Committee 2 (planning)

97-1124-03 Engineering division submitting monthly project status report for November, 1997. -- Received

97-1124-28 Public works department director submitting storm water utility development plan, final report. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

97-1124-04 Building appeal board minutes of October 8, 1997, meeting. -- Received

97-1124-05 Environmental advisory council minutes of: (a) June 18; (b) August 6; (c) September 3; (d) October 1, 1997, meetings. -- Received

97-1124-06 Planning commission minutes of September 9, 1997, meeting. -- Received

97-1124-07 Sanitary sewer board of WLSSD board minutes of November 3, 1997, meeting. -- Received

97-1124-08 Special assessment board: (a) Minutes of October 14, 1997, meeting; (b) Report for proposed improvement of Denney Drive from Skyline Parkway to 792 feet northerly. -- Received

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**ORDINANCE TABLED**

BY COUNCILOR YOUNG

97-037 - AN ORDINANCE ADDING A NEW ARTICLE XXVII TO CHAPTER 2 OF THE CITY CODE ESTABLISHING A PAYMENT IN LIEU OF TAXES BOARD.

Councilor Keenan moved to suspend the rules to consider at this time the ordinance and also remove the ordinance from the table, which motion was seconded and unanimously carried.

Councilor Young moved to withdraw the ordinance from the agenda, which motion was seconded and discussed. He noted that he will submit a resolution regarding this issue.

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

The ordinance was removed from the agenda upon a unanimous vote.

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**RESOLUTIONS TABLED**

Councilor Prettner Solon moved to remove Resolution 97-0798, granting a special use permit for a community unit plan and water resource management ordinance variances to Dovolis, Johnson & Ruggieri, Inc., and J. Michael Construction, Inc., for property located at 3400 London Road and 100 North 32nd Avenue East, from the table, which motion was seconded and unanimously carried.

Councilor Prettner Solon moved to return the resolution to the planning commission because the developer is changing his plan, which motion was seconded and unanimously carried.

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Councilor Prettner Solon moved to remove Resolution 97-0870, granting a special use permit to Kenneth and Mona Knutson for a bed and breakfast inn for property located at 2215 East Second Street, from the table, which motion was seconded and unanimously carried.

Councilor Prettner Solon stated a variance was previously granted, that there has not been a significant impact on the neighbors and now a special use permit is sought that is even more restrictive.

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

Patricia Kottke opposed the resolution, noting all the problems that this has caused, especially the crowded parking status. She reviewed the issues that she raised in a recent letter (Public Document No. 97-1124-24(a)), noting further the situation of separation of their property parcels, in order to establish another bed and breakfast in the same location.

Charles Drexler opposed the resolution, stating that there is a perception that this, with the number of seatings, creates a form of a restaurant in a residential neighborhood.

Jay Lenz opposed the issue of the "multiple seatings of 28 per seating" aspect. He stated that the owners have stated to them that they make the most business with the lodging and requested that some of these references to dining and how many can eat there, be taken out of the resolution.

Kathy Carlson stated that there is agreement in a couple of areas, but opposed the commercial aspect of this business, noting that this spot zoning of the special use permit degrades the neighborhood. She said that the Knutson's have not satisfied the existing promises previously agreed to.

Gerald Torvund, real estate appraiser, noted the differences in definitions of special use and variances from appraisal publications. He stated that "value depreciation" is caused from things like the movement of commercial activity into a residential neighborhood.

Casey Knutson, manager of Manor on the Creek, noted that during the recent open house about 12 neighbors viewed the house and they noted that some commented that there has not

been any disturbances or complaints over the last three years of the variance. She noted that they have had 49 events and that 24 people have stayed overnight. Ms. Knutson noted that the terms of the special use permit are more restrictive than the existing variance.

Councilor Hogg stated that homeowners rely on a particular zoning to remain the way it is when they purchase their property.

Councilor Hales reviewed the items of the variance that have not been complied with and said that there is still a couple of years remaining on the variance, noting the back taxes and other issues. She stated that when the conditions of the variance have been met they could come back for the special use permit.

Councilor Young noted that he has concerns on the issues related to the creation of a special use permit and the creation of spot zoning and valuation.

To councilors' questions, City Attorney Dinan noted that the city building inspection and physical planning divisions seek to secure compliance to a special use permit before any legal action is commenced.

Darrell Lewis, physical planning division manager, noted that he would not have supported the initial issuance of a use variance, adding that his division has been working with the Knutson's to apply for the special use permit for better compliance. He stated that they would seek to have Mr. Knutson comply with a special use permit, which is more restrictive.

Councilor Talarico felt that if the special use permit was approved, compliance would follow. He stated that he did not feel that this was truly a "restaurant."

To Councilor Bohlmann's questioning, Mr. Lewis stated that under a special use permit tickets can be issued from the court to make compliance much better. He said that under the variance, details of time frame and the depth of compliance are not stated in an ordinance.

Councilor Hales moved to amend the terms and conditions of the resolution to read as follows:

"(a) The bed and breakfast inn shall not offer restaurant services or receptions to the general public;

(b) Allowing only one seating for any one meal;

(c) The 16 off street parking spaces, fences and privacy screens and other improvements specified in the plan shall be completed as per Section 50-26 within 12 months of the effective date of this permit;

(d) Guests shall be instructed to park in the parking lot and driveway and not on the street;

(e) The dumpster and any other garbage or refuse facilities shall be fully enclosed and screened in within one year of the effective date of this permit;

(f) That this permit shall be reviewed after a period of one year by the planning office who shall issue a written report to the planning commission and city council for compliance with the terms of this permit and every three years hereafter," which motion was seconded and discussed.

Councilor Keenan stated that he opposes the restriction of not allowing restaurant service or receptions to the general public and that the review process be in two years instead of five years.

Councilor Talarico moved to divide the question and vote on each condition proposed to be amended separately, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Hogg -- 1

The proposed amendments were voted on as follows:

(a) Not offering restaurant services or receptions to the general public. This was discussed and determined that this condition is the same as what is in the variance. The amendment was unanimously carried.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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(b) Allowing only one seating for any one meal. This amendment failed upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg and Young -- 4

Nays: Councilors Keenan, Prettner Solon, Rapaich, Talarico and President Hardesty -- 5

(c) That fences and privacy screens and other improvements, specified in the plan shall be completed within 12 months. The amendment was unanimously carried.

(d) Requiring that guests shall be instructed to park in the parking lot and driveway and not on the street. The amendment was unanimously carried.

(e) That the dumpster and any other garbage or refuse facilities shall be fully enclosed and screened in within one year of the effective date of this permit. The amendment was unanimously carried.

(f) Requiring that this permit shall be reviewed after a period of one year by the planning office who shall issue a written report to the planning commission and the city council for compliance with the terms of this permit and every three years hereafter.

To Councilor Talarico's inquiry, Councilor Hales stated she would move to strike the reference to "every three years hereafter," which amendment to the amendment was seconded and unanimously carried.

Amendment (f), as amended, was unanimously carried.

Resolution 97-0870, as amended, was adopted as as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Kenneth and Mona Knutson have submitted to the city council a request for a special use permit for a bed and breakfast inn on property described as: All of Lots 5, 6, 7, 8, 9, 10, Block 5 and adjacent vacated alley and the easterly 30.28 feet of adjacent vacated 22nd Avenue East except the northerly 45 feet of Lot 5 except the easterly 0.7 feet thereof, the northerly 45 feet of the easterly 10.66 feet of Lot 6, the northerly 75 feet of the westerly 15 feet of the easterly 26.6 feet of Lot 6 and the northerly 85.0 feet of the westerly 14.5 feet of Lot 6 and the northerly 99.0 feet of Lots 7, 8, 9 and the easterly 20 feet of Lot 10 and the westerly 20.1 feet of Lots 10 and 20 adjacent vacated alley and the northerly 160 feet of the easterly 30.28 feet of adjacent vacated 22nd Avenue East, all in Block 5, Endion Park Division; and

All of Lots 11, 12, 13, 14 and 15 and the westerly 3.5 feet of the southerly 34 feet of Lot 16 in Block 8, all in Endion Division of Duluth and fractional Block 3, in New Endion Division of Duluth, containing 1.106 acres and located at 2215 East Second Street; and

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

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Kenneth and Mona Knutson to allow for the operation of a bed and breakfast inn, as defined by Section 50-1.8 of the City Code, on the above described property at 2215 East Second Street, in accordance with Public Document No. 97-1124-26, subject to the following the terms and conditions:

(a) The bed and breakfast inn shall not offer restaurant services or receptions to the general public;

(b) The 16 off street parking spaces, fences and privacy screens and other improvements

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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specified in the plan shall be completed as per Section 50-26 within 12 months of the effective date of this permit;

(c) Guests shall be instructed to park in the parking lot and driveway and not on the street;

(d) Dining is limited to seating for 28;

(e) The dumpster and any other garbage or refuse facilities shall be fully enclosed and screened in within one year of the effective date of this permit;

(f) The proposed structural alterations, solarium on the west side of the building and changes to enclosed front porch are approved and will be permitted only after written approval is obtained from the city planning staff and the heritage preservation commission staff;

(g) This permit shall be effective for a period of ten years from the date of the passage of this resolution, and may be renewed thereafter;

(h) Notwithstanding the provisions of (g) above, this permit shall be reviewed after a period of one year by the planning office who shall issue a written report to the planning commission and city council for compliance with the terms of this permit. Additionally, this permit shall be reviewed five years from the date of passage of this resolution and shall be subject to revocation at that time.

Resolution 97-0870, as amended, was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales, Hogg and Young -- 4

Approved November 24, 1997

GARY L. DOTY, Mayor

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At this time, 8:55 p.m., President Hardesty announced the public hearing regarding the Spirit Mountain recreation area master plan would began (Public Document No. 97-1124-27).

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At this time, 10:28 p.m., President Hardesty declared the public hearing closed and the regular order of business was resumed.

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Councilor Prettner Solon moved to remove Resolution 97-0871, amending the Spirit Mountain recreation area master plan, from the table, which motion was seconded and unanimously carried.

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

Rick Certano, Spirit Mountain director, reviewed that the additional revenue generated from the golf course would be used to implement part of the master plan, with some possible bonding. He noted that there are no public funds involved with the golf course and hotel. To councilor questions, Mr. Certano noted that golf course development would not commence without 18 holes.

Councilor Keenan stated that he would not support any destruction of the forest, wetlands, or cross country trails, for a developer's gains.

Councilor Hogg felt that all the impact of this development is not known yet. He questioned the impact on the stormwater utility, the existing city golf courses and if this was approved that it would be harder to deny the development plan, and added that he would support looking at this after the comprehensive plan is established. Councilor Hogg moved to refer this resolution back to the administration and that it would be returned to the council after one year, which motion was seconded and failed upon the following vote:

Yeas: Councilors Hogg and Keenan -- 2

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

Resolution 97-0871 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Chapter 327, Minnesota Laws, 1973, 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 advisory board, approve a master plan for potential land development; and

WHEREAS, the Spirit Mountain recreation area authority has proposed amending the master plan, as adopted by resolution (Public Document No. 61453) of the Duluth City Council on January 21, 1974, as amended by Resolution No. 75-0604 (Public Document No. 64022) on October 6, 1975, as follows:

- (a) A reduction in the size of the golf course from 18 holes to nine holes;
- (b) Additional ski runs and lifts;
- (c) Addition of a summer youth recreation area;
- (d) Addition of a snowboard park;
- (e) Additional lodging areas; and

WHEREAS, it is the opinion of the city planning commission, the parks and recreation advisory board and the city council that the basic content and objectives of the approved master plan and the purpose and objectives of the legislation creating the Spirit Mountain recreation area would be met by this amendment of the land use plan.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council does hereby amend the Spirit Mountain master plan as contained in Public Document No. 61453 and Public Document No. 64022, by replacing it with the Spirit Mountain master plan on file in the office of the city clerk as Public Document No. 97-1124-18, subject to the following conditions:

- (a) The city of Duluth water resources management ordinance be used as a guide in the approval of all plans and work permits;
- (b) The parking standards established in the Duluth zoning ordinance be used as a guide in the approval of all plans and work permits.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to attach a copy of this resolution to the approved master plan.

Resolution 97-0871 was adopted upon the following vote:

Yeas: Councilors Hales, Prettnner Solon, Rapaich, Talarico and Young -- 5

Nays: Councilors Bohlmann, Hogg, Keenan and President Hardesty -- 4

Approved November 24, 1997

GARY L. DOTY, Mayor

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At this time, 10:54 p.m., Councilor Talarico moved to suspend the rules to extend the meeting until 11:30 p.m., which motion was seconded and unanimously carried.

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Councilor Keenan moved to remove Resolution 97-0782, supporting a federal outstanding national resource water designation for Lake Superior, from the table, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Prettnner Solon -- 1

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

Kinnan Stauber voiced support for the resolution and explained the intent of the resolution.

Councilor Keenan stated that this resolution will do more to protect Lake Superior than the effect of Resolution 97-0924, which is sponsored by Councilor Prettnner Solon.



Councilor Bohlmann expressed her concern that resolutions like this and Resolution 97-0924 would come back to the council in the future with costs associated with it.

Councilor Hales moved to call the question on the resolution, which motion was second and unaniously carried.

Resolution 97-0782 failed upon the following vote (Public Document No. 97-1124-09):

Yeas: Councilors Keenan, Rapaich, Talarico and President Hardesty -- 4

Nays: Councilors Bohlmann, Hales, Hogg, Prettnner Solon and Young -- 5

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### **MOTIONS AND RESOLUTIONS**

BY COUNCILOR HOGG:

WHEREAS, the Minnesota legislature has provided for the collection of local sales taxes by the state commissioner of revenue in Section 30 of Article 7 of Chapter 231 of the Laws of Minnesota, 1997; and

WHEREAS, a portion of that section of the bill codified as Minnesota Statutes Section 297A.48, Subd. 7(c) provides that a political subdivision that is collecting and administering its own sales and use tax before January 1, 1998, may elect to be exempt from this subdivision and Subdivision 8; and

WHEREAS, the city of Duluth enacted its local sales tax in 1969 pursuant to the Laws of Minnesota, 1953, Chapter 560 and has at all times since then administered and collected its own sales and use tax; and

WHEREAS, the city of Duluth has collected its sales tax in an efficient and fair manner for the last 28 years and believes that it is in the best interests of all the citizens of the city of Duluth for it to continue to collect its own sales tax and administer its own sales tax ordinance.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Minnesota Statutes Section 297A.48, Subd. 7(c), the city of Duluth hereby elects to continue to collect and administer its own sales and use tax and to be exempt from the provisions of Subd. 7 and Subd. 8 of said Minnesota Statutes Section 297A.48.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a certified copy of this resolution to the Minnesota commissioner of revenue to inform said commissioner of the city's election.

Resolution 97-0862 was unanimously adopted.

Approved November 24, 1997

GARY L. DOTY, Mayor

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Resolution 97-0916, by Councilor Hogg, approving DEDA's general, debt service, capital project and storefront loan fund budgets for 1998, was introduced for discussion.

Councilor Hogg stated that he has questions on this resolution and moved to table the resolution, which motion was seconded and unaniously carried.

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BY COUNCILOR HOGG:

RESOLVED, that the city is hereby authorized to enter into an agreement with AMS, American Management Systems, Inc., to provide on site programming support services, additional testing and training services for the city's payroll and human resources software, payable out of Fund 100, Org. 1324, Obj. 5441, at an estimated cost of \$6,900 plus expenses.

Resolution 97-0920 was unanimously adopted.

Approved November 24, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Howard Waste Paper Company be and hereby is awarded a contract for furnishing 1997 recycling requirements for various departments/divisions in accordance with specifications on its low specification bid of \$5,100, terms net 30, FOB job sites, payable out of various funds, dept./agencies, various organizations, objects.

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

Resolution 97-0906 was unanimously adopted.

Approved November 24, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Capital Information Technology Solutions be and hereby is awarded a contract for furnishing and delivering miscellaneous microcomputer hardware, ordered as needed during a 12-month period, to various city departments and divisions in accordance with specifications and referencing state of Minnesota Contract No. 400120 pricing, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various. Not to exceed the 1998 budget allocation for computer equipment as approved by the budget ordinance for capital equipment.

Resolution 97-0909 was unanimously adopted.

Approved November 24, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that A.W. Kuettel and Sons, Inc., be and hereby is awarded a contract for repairing metal roofs at Peterson arena, Fryberger arena and Duluth Heights Community Club for the city architect division in accordance with specifications on its low specification bid of \$21,953, terms net 30, FOB job sites, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1997, Object C713.

Resolution 97-0913 was unanimously adopted.

Approved November 24, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

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

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

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

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
Duluth Junior Football	T-Bonz	November 5, 1997

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CLIMB Theater      Charlie's Club      November 6, 1997  
Welch Center      Tappa Keg Inn      October 29, 1997  
Resolution 97-0923 was unanimously adopted.  
Approved November 24, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

T. A. D., Inc. (Pioneer Bar & Grill), 323 West First Street, with Adam Jaros, president, 100% stockholder, Anthony Hill, vice president/treasurer, and David Jaros, secretary, transferred from LW Duluth, Inc. (Pioneer Bar), same address.

Resolution 97-0925 was unanimously adopted.  
Approved November 24, 1997  
GARY L. DOTY, Mayor

- - -

Resolution 97-0897, by Councilor Prettner Solon, authorizing a HOME program grant agreement with American Indian Community Housing Organization in the amount of \$70,000, was introduced for discussion.

Councilor Hogg questioned the figures noted with the land and building values, rehabilitation costs and purchase price. He did not feel that this was the best use of funds for the improvements that would be made.

Keith Hamre, community development and housing division manager, noted that he was informed that the purchase price for each property was \$1.

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At this time, 11:30 p.m., Councilor Talarico moved to suspend the rules to extend the council meeting until 11:45 p.m., which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Prettner Solon, Rapaich, Talarico and Young -- 8

Nays: President Hardesty -- 1

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Councilor Hales expressed her concern over the discrepancy and moved to table the resolution, which motion was seconded and unanimously carried.

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, pursuant to Resolution No. 97-0623 adopted on August 25, 1997, the city of Duluth (the city), entered into an agreement with Damiano of Duluth, Inc., Duluth, Minnesota (Damiano Center), in which the Damiano Center agreed to operate the tenant's union project (the agreement), payable from the 1997 Federal Program Fund 262 - community development - tenant's union project Account 6029; and

WHEREAS, parties desire to amend the agreement to increase the contract amount by an additional \$9,500.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 1, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 97-1124-10, to the agreement with the Damiano Center which adds an

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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additional \$9,500 to the contract amount payable from the 1996 Federal Program Fund 262 - community development - tenant's union project Account No. 6927.

Resolution 97-0899 was unanimously adopted.

Approved November 24, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, Bernice and Dan Johnson have appealed to the city council the decision of the board of zoning appeals to deny a request to relax the side yard setback from 20 feet to ten feet (a 50 percent reduction) and relax the rear yard setback from five feet to three feet (a 40 percent reduction) for the construction of a new detached 26 foot x 24 foot garage on property located at 1907 Columbus Avenue; and

WHEREAS, the city council has considered this appeal and determined that the required findings for granting of a variance to allow a side yard setback of ten feet and a rear yard setback of three feet for a 26 foot x 24 foot detached garage can be made in this case based upon limits set forth in the zoning ordinance;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the board of zoning appeals' decision of September 23, 1997, is hereby reversed by the city council and the appeal is granted.

Resolution 97-0900 was unanimously adopted.

Approved November 24, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the Duluth City Code presently contains gender specific references in many of its provisions; and

WHEREAS, the city council believes it is inappropriate to have such gender specific references in the City Code and desires to eliminate such references over a period of time;

NOW, THEREFORE, BE IT RESOLVED, that the city attorney's office is directed to replace gender specific references with gender neutral references when drafting any new City Code provisions or amending any existing sections of the City Code.

Resolution 97-0911 was unanimously adopted.

Approved November 24, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the International Joint Commission has formed the binational program to restore and protect Lake Superior; and

WHEREAS, the result of that program is the Great Lakes water quality initiative (GLI); and

WHEREAS, an optional element of the GLI is special designations for Lake Superior the states may incorporate with the GLI in their water quality rules; and

WHEREAS, the nine bioaccumulative substances of immediate concern (BSIC) identified in the special designations are a serious threat to the Lake Superior ecosystem; and

WHEREAS, the objective of achieving elimination of these toxins over time from Lake Superior is desirable; and

WHEREAS, the outstanding international resources waters (OIRW) optional special designation is the most balanced and reasonable approach to this objective to eliminating these toxins;

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NOW, THEREFORE, BE IT RESOLVED, the city of Duluth supports the special designation of Lake Superior as an outstanding international water resources (OIWR).

Resolution 97-0924 was unanimously adopted.

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Councilor Keenan moved to reconsider Resolution 97-0924, supporting an outstanding international resource waters (OIRW) designation for Lake Superior, at this time, which motion was seconded and carried upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Young -- 3

Councilor Talarico noted that when St. Louis County adopted the OIRW designation after they had already accepted the outstanding national resource water (ONRW) designation, they noted the importance of the resource and the need to go back and review this after three years. He moved to amend the resolution as follows:

(a) In the sixth paragraph, second sentence, after the words "special designation is," add the word "presently" and further add to that paragraph after the word "toxins" the words "but three years from now the city council believes that the outstanding national resources water designation would be the most appropriate";

(b) In the last paragraph, after the words "resources (OIWR)," add the words, " for the next three years and then supports the special designation of Lake Superior as an outstanding national resource water (ONWR)," which motion was seconded and discussed.

Councilor Talarico noted that these can be very expensive aspects and that the city should be consistent with the county.

Councilor Talarico's amendment unanimously carried.

Resolution 97-0924, as amended, was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the International Joint Commission has formed the binational program to restore and protect Lake Superior; and

WHEREAS, the result of that program is the Great Lakes water quality initiative (GLI); and

WHEREAS, an optional element of the GLI is special designations for Lake Superior the states may incorporate with the GLI in their water quality rules; and

WHEREAS, the nine bioaccumulative substances of immediate concern (BSIC) identified in the special designations are a serious threat to the Lake Superior ecosystem; and

WHEREAS, the objective of achieving elimination of these toxins over time from Lake Superior is desirable; and

WHEREAS, the outstanding international resources waters (OIRW) optional special designation is presently the most balanced and reasonable approach to this objective to eliminating these toxins, but three years from now the city council believes that the outstanding national resource water designation would be the most appropriate.

NOW, THEREFORE, BE IT RESOLVED, the city of Duluth supports the special designation of Lake Superior as an outstanding international water resources (OIWR) for the next three years and then supports the special designation of Lake Superior as an outstanding national resource water (ONWR).

Resolution 97-0924, as amended, was unanimously adopted.

Approved November 24, 1997

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers hereby authorize Amendment No. 2 to Agreement No. 17285 with Architectural Resources, Inc., for the sum of not to exceed \$15,900 from General Fund 100, Ag. 700, Org. 1418, Obj. 1428, for providing certain additional architectural services to the city of Duluth in connection with the Lakewalk east trail extension and parking expansion at the London Road tunnel, 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. 97-1124-11.

Resolution 97-0887 was unanimously adopted.

Approved November 24, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers hereby authorize Amendment No. 1 to Agreement No. 17948 with LHB Engineers & Architects, for the sum of not to exceed \$12,974 from Capital Fund 450, Ag. 015, Org. 1997, Obj. C715, for providing certain additional professional engineering services to the city of Duluth in connection with Lakewalk slope stabilization, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 97-1124-12.

Resolution 97-0892 was unanimously adopted.

Approved November 24, 1997

GARY L. DOTY, Mayor

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Resolution 97-0896, by Councilor Keenan, establishing the 1998 golf course rates, was introduced for discussion.

Councilor Keenan moved to amend Exhibit A (Public Document No. 97-1124-13) as follows:

(a) Under the daily ticket section, add a new ticket to read:

“Fall Nine-hole Twilight Ticket. Permits nine holes of play on the golf course where the permit is purchased on the day the printed is purchased. These permits will be sold only during the months of September and October and only after a time of day determined by the golf pro that will reasonably allow time for completion of nine holes of play before darkness”;

(b) Under the 1998 proposed golf rates, add a line under the daily ticket section to read:

Daily Tickets    1997 Rate    1998 Proposed    Increase    % of Increase

Fall Twilight        N/A        \$8        NEW        N/A”;

(c) Add a provision at the bottom of page two that reads as follows:

“With the approval of the director of parks and recreation, the golf pro may set special rates for special events or group events which promote an increase in play of golf,” which motion was seconded and carried upon the following vote:

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

Nays: Councilor Prettner Solon -- 1

Councilor Hogg expressed concern about taking this action before the council approves the budget, and therefore moved to table the resolution, which motion failed upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg and Young -- 4

Nays: Councilors Keenan, Prettner Solon, Rapaich, Talarico and President Hardesty -- 5

Resolution 97-0896, as amended, was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that pursuant to Section 35-15 of the Duluth City Code, the Duluth City Council

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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hereby establishes rates for the use of municipal golf courses as set forth in Exhibit A on file in the office of the city clerk as Public Document No. 97-1124-13, effective upon the passage of this resolution, and does further rescind all former inconsistent golf and golf cart rates.

FURTHER RESOLVED, that all such fees collected shall be deposited in the Golf Budget No. 503.

Resolution 97-0896, as amended, was adopted upon the following vote:

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

Nays: Councilor Hogg -- 1

Approved November 24, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that St. Louis County social services be and hereby is awarded a contract for furnishing and delivering approximately 68,090 hot meals for a 12 month period for the parks and recreation department in accordance with the specifications on its proposal of \$2.35 per meal for meals delivered from January 1, 1998, to December 31, 1998, approximate total cost of \$160,130.70, payable out of Senior Nutrition Fund 272, Dept./Agency 031, Organization 6308, Object 0071.

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

Resolution 97-0908 was unanimously adopted.

Approved November 24, 1997

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

WHEREAS, Section 2-44 of the Duluth City Code, 1959, provides for the appointment of a city councilor as a nonvoting member of the parks and recreation commission; and

WHEREAS, such appointment is to be made by the mayor upon recommendation of the city council;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby recommends the appointment of Scott Keenan to fill the city councilor position on the parks and recreation commission.

Resolution 97-0936 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Keenan -- 1

Approved November 24, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR YOUNG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Northern Energetics for professional services relating to energy audits of 500 single and multi family homes per year, for years 1998 and 1999, which agreement is on file in the office of the city clerk as Public Document No. 97-1124-14; payment not to exceed \$50,000, payable from the Public Utility Gas Fund 556, Department 950, Object 5441.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Resolution 97-0886 was unanimously adopted.  
Approved November 24, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR YOUNG:

RESOLVED, that Resolution 97-0296 to Minnegasco, Inc., for furnishing natural gas odorant be amended to increase the amount by \$4,368 for a new total of \$16,538, payable out of Gas Fund 520, Dept./Agency 900, Organization 0555, Object 5280.

Resolution 97-0921 was unanimously adopted.  
Approved November 24, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR YOUNG:

RESOLVED, that Billington Contracting, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 5,000 cubic yards of pit run gravel for the water and gas department in accordance with specifications on its low specification bid of \$25,974.53, terms net 30, FOB delivered, \$12,987.27 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227 and \$12,987.26 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 97-0922 was unanimously adopted.  
Approved November 24, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized and directed to execute a railroad crossing agreement, filed as Public Document No. 97-1124-15, between the city of Duluth and Burlington Northern and Santa Fe Railroad Company necessary for the reconstruction of 75th Avenue West between Grand Avenue and the Indian Point campground entrance for a cost of \$8,400, to be paid from the Permanent Improvement Fund 411.

Resolution 97-0898 was unanimously adopted.  
Approved November 24, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 97-0536 to R.R.E.M., Inc., for furnishing design engineering services required for 1998 street improvement program for the upper Lincoln park project be amended to increase the amount by \$60,334 for a new total of \$87,734, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9804, Object 5530.

Resolution 97-0902 was unanimously adopted.  
Approved November 24, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 97-0538 to Seaway Engineering Company for furnishing design engineering services required for 1998 street improvement program for the upper Woodland East-2 project, be amended to increase the amount by \$93,190 for a new total of \$133,060, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9805, Object 5530.



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Resolution 97-0903 was unanimously adopted.  
Approved November 24, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 97-0537 to Salo Engineering, Inc., for furnishing design engineering services required for 1998 street improvement program for the Norton Park West project be amended to increase the amount by \$58,200 for a new total of \$76,200, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9802, Object 5530.

Resolution 97-0904 was unanimously adopted.  
Approved November 24, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 97-0535 to L.H.B. Engineers and Architects for furnishing design engineering services required for 1998 street improvement program for the lower Lakeside project be amended to increase the amount by \$132,822 for a new total of \$168,543, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9801, Object 5530.

Resolution 97-0905 was unanimously adopted.  
Approved November 24, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 97-0473 to Billington Contracting, Inc., for furnishing bedding sand be amended to increase the amount by \$7,884 for a new total of \$18,079.03, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0570, Object 5227.

Resolution 97-0907 was unanimously adopted.  
Approved November 24, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-0465 to L.H.B. Engineers and Architects for furnishing design and construction of the 1996 S.I.P. of Vernon Street from Michigan Avenue to Pacific Avenue be amended to increase the amount by \$14,167 for a new total of \$32,000, payable from the Street Improvement Program Fund 440, Dept./Agency 038, Organization 9608, Object 5303.

Resolution 97-0910 was unanimously adopted.  
Approved November 24, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute a limited use permit with the Minnesota department of transportation covering the use by the city for a period of ten years of two public parking areas beneath and adjacent to the I-535 Freeway at 22nd Avenue West between Superior Street and First Street and First Street and Second Street; said limited use permit to be in the form of Public Document No. 97-1124-16, on file in the office of the city clerk, and shall include by reference the provisions of diagram A-1 and original permit A-2 attached to said permit.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Resolution 97-0912 was unanimously adopted.  
Approved November 24, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the department of transportation of the state of Minnesota has submitted to the city of Duluth agreements for the maintenance of trunk highways and related work within the corporate limits of the city of Duluth;

RESOLVED, that the proper city officers are hereby authorized to execute routine maintenance agreements between the city of Duluth and the Minnesota department of transportation, as follows:

No. 75889: State trunk highways within Duluth city limits, Public Document No. 97-1124-17(a), \$161,157.48 encumbered.

Under this agreement, the city will maintain 53.24 equivalent lane miles of state trunk highway within the corporate limits of the city of Duluth during the period July 1, 1997, through June 30, 1999, for the sum of \$3,027 per equivalent lane mile;

No. 76719: Landscaping along T.H. 53 (Piedmont Avenue), Public Document No. 97-1124-17(b), \$10,000 encumbered.

Under this agreement, the city will provide maintenance of landscaping along Piedmont Avenue between Skyline Parkway and the freeway entrance.

All sums are to be deposited in the General Fund 100-500-1920-5234.

Resolution 97-0917 was unanimously adopted.

Approved November 24, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

BE IT RESOLVED, that the proper city officials are authorized to pay to Charles Lemon and his attorney, A. Blake MacDonald, the sum of \$34,750 in full settlement of all claims, including those for consequential damage arising out of environmental changes or damages occurring at or near the Pioneer Apartment building, 321 West First Street and the proper city officials are authorized to spend an additional amount up to \$4,000 to complete the on-going remediation project being conducted by Remediation Services, Inc., under contract with the city, at the site, conditional upon said expenditures qualifying for full or partial reimbursement from the Minnesota Petro-Fund; expenditures to be from self insurance fund.

Resolution 97-0919 was unanimously adopted.

Approved November 24, 1997

GARY L. DOTY, Mayor

- - -

At this time, 11:44 p.m., Councilor Hales moved to suspend the rules to extend the meeting until 11:55 p.m., which motion was seconded and unanimously carried.

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BY COUNCILOR HALES:

WHEREAS, the city and Greater Downtown Council have been approached by the faculty and parents of the Nettleton Magnet School to repeat a community sharing event done ten years ago whereby Nettleton students created artwork on bags which were used to cover Downtown parking meters and provide Downtown shoppers with one week of two-hour free parking before the holidays; and

WHEREAS, the city agrees that the reimplementation of this program would have a positive

effect on the Downtown area because it would encourage downtown shopping near the holidays while at the same time providing an educational opportunity for Nettleton students and brightening the Downtown area;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby authorizes the covering of Downtown parking meters, as shown on Public Document No. 97-1124-19, with ornamental covers produced by the Nettleton Magnet School from December 13, 1997, until December 20, 1997.

RESOLVED FURTHER, that during this period two-hour time limit parking shall be enforced on all of the covered meter parking areas.

Resolution 97-0918 was unanimously adopted.

Approved November 24, 1997

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES  
ORDINANCE TABLED**

BY COUNCILOR HALES

97-035 - AN ORDINANCE INCREASING THE MAXIMUM FEES WHICH MAY BE CHARGED BY EMERGENCY WRECKER SERVICES, AMENDING SECTION 33-259 OF THE CITY CODE.

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

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

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The meeting was adjourned at 11:50 p.m.

JEFFREY J. COX, City Clerk

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, December 1, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-1201-01 Clinton J. Reff and Diana L. Sherrell submitting petition for vacation of 27th Avenue East between Jefferson and Alexander Streets. -- Assessor

97-1201-18 Bruce A. Esse submitting communication pertaining to proposed special use permit for property located at 3400 London Road and 100 North 32nd Avenue East (97-0798R). -- Received

97-1201-19 Minnesota Senior Federation Northeast Coalition submitting communication pertaining to the proposed vacation of skywalk easements in the Holiday Center (Lyric Block) (97-0819R). -- Received

97-1201-17 The following submitting communications pertaining to proposed demolition debris landfill in Gary-New Duluth (97-0948R): (a) Citizens Coalition of Gary-New Duluth; (b) Demolition Landfill Services, Inc., by Bill Burns, attorney; (c) Voyageur Services, Inc. -- Received

97-1201-20 The following submitting communications pertaining to the proposed regulation of snowmobiles in Duluth (97-042-O): (a) Amazing Grace Bakery and Cafe; (b) Blue Heron Trading Company; (c) Gloria and Leif Brush; (d) Catherine's Imports; (e) Twin Ports Cyclery. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

97-1201-02 Alcoholic beverage board minutes of: (a) July 16; (b) July 31; (c) August 20; (d) September 17; (e) October 22, 1997, meetings. -- Received

97-1201-03 Board of zoning appeals minutes of October 28, 1997, meeting. -- Received

97-1201-04 Duluth airport authority: (a) Minutes of: (1) September 16; (2) October 8; (3) October 21, 1997, meetings; (b) Balance sheets of: (1) June 30; (2) July 31; (3) August 31; (4) September 30; (5) October 31, 1997. -- Received

97-1201-05 Duluth housing trust fund board minutes of September 11, 1997, meeting. -- Received

97-1201-06 Seaway Port authority of Duluth: (a) August 31, 1997, departmental review; (b) August, 1997, financial statements; (c) Minutes of September 30, 1997, meeting. -- Received

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**OPPORTUNITY FOR CITIZENS TO BE HEARD**

Jack Burklund expressed concern about an announcement made by Governor Carlson recently at a local meeting that he intends to move forward and spend \$15 million of state taxpayers' money on a veterans memorial park on Duluth's waterfront and will include the docking of the warship USS Des Moines without public input. He, and others in attendance who stood in support of him, stated opposition to the plan and described the governors' statement that he will neither seek or accept public input as arrogant and unsettling to residents. Mr. Burklund expounded on the council's role to act as representatives for Duluth residents and stated that he and others have expectations and hope that the council will express to the Duluth legislative delegation the deep opposition of the people of Duluth to the expenditure of taxpayer money on unnecessary projects such as this. He read the position statement of the Coalition to Stop the USS Des Moines.

Councilor Prettner Solon stated that if the state makes an offer to purchase the property from the Duluth economic development authority (DEDA), a public hearing will be necessary and will provide residents of Duluth with an opportunity to express their opinion about the project.

Responding to President Hardesty, Councilor Prettner Solon stated that the decision by DEDA to sell the property to the state does not require council approval.

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### **RESOLUTION TABLED**

Councilor Prettner Solon moved to remove Resolution 97-0897, authorizing a HOME program grant agreement with American Indian Community Housing Organization in the amount of \$70,000, from the table, which motion was seconded and carried upon a unanimous vote.

Councilor Hogg reviewed that a memo received from Keith Hamre, community development and housing division manager, indicates that the cost for these tri-plexes is \$90,000 and that the cost per square foot is approximately \$90. He stated that he believes that the total investment for this project of \$577,631, which will provide accommodations for one office and living quarters for five families, is too high and he will not support it.

Councilors Bohlmann and Hales stated that the housing program is a good one, but the proposed cost to renovate these tri-plexes is excessive. They agreed that if the funding is not spent irresponsibly, more families can be accommodated. Councilor Hales encouraged the council to hold a committee meeting to set policy for housing issues before funding requests for excessively expensive projects are received for the coming year.

Councilor Prettner Solon stated that the cost of the proposed housing is reasonable and in line with similar housing throughout the nation and that it is because of compliance with federal standards that the cost of the housing is as high as it is. She continued that this type of housing would not occur if public funding were not available.

Resolution 97-0897 was adopted as follows:

**BY COUNCILOR PRETTNER SOLON:**

RESOLVED, that the proper city officials are hereby authorized to enter into a HOME program grant agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 97-1201-07, with American Indian Community Housing Organization relating to the rehabilitation of its Oshki Odaadiziwini Waaka'igan project in an amount not to exceed \$70,000; \$47,640 of which is payable from 1996 HOME Program Fund 260, Agency 020, Org. 2652, Object H003 and \$22,360 of which is payable from 1997 HOME Program Fund 260, Agency 020, Org. 2662, Obj. H003.

Resolution 97-0897 was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hogg and Young -- 3

Approved December 1, 1997

GARY L. DOTY, Mayor

- - -

### **MOTIONS AND RESOLUTIONS**

**BY COUNCILOR HOGG:**

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the state of Minnesota department of administration for the benefit of the Duluth Family Practice Center in the amount of \$1.4 million, said sum to be deposited in the Capital Improvement Fund 450, Agency 015, Org. 1998 and to execute the grant agreement, disbursing agreement and declaration on file in the office of the city clerk as Public Document No. 97-1201-08 pertaining thereto.

Resolution 97-0927 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Approved December 1, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 97-1201-09 with the Duluth Graduate Medical Education Council, Inc., for the improvement and operation of the Duluth Family Practice Center in the amount of not to exceed \$2.1 million, \$700,000 of which shall be provided by said corporation, payable from the capital improvement fund.

Resolution 97-0928 was unanimously adopted.

Approved December 1, 1997  
GARY L. DOTY, Mayor

- - -

Resolution 97-0932, by Councilor Hogg, distributing the estimated 1998 tourism taxes of hotel-motel and food and beverage, was introduced for discussion.

Councilor Hogg moved to table the resolution so that it can be reviewed with budget discussions, which motion was seconded and unanimously carried.

- - -

Resolution 97-0933, by Councilor Hogg, approving the fiscal year January 1, 1998, to December 31, 1998, operation budget of the Duluth airport, was introduced for discussion.

Councilor Hogg moved to table the resolution so that it can be reviewed with budget discussions, which motion was seconded and unanimously carried.

- - -

Resolution 97-0934, by Councilor Hogg, approving the fiscal year January 1, 1998, to December 31, 1998, operation budget of the Duluth transit authority, was introduced for discussion.

Councilor Hogg moved to table the resolution so that it can be reviewed with budget discussions, which motion was seconded and unanimously carried.

- - -

Resolution 97-0947, by Councilor Hogg, approving the operation budget for the fiscal year January 1, 1998, to December 31, 1998, in the amount of \$9,375,745 for Duluth Steam District No. 2, was introduced for discussion.

Councilor Hogg moved to table the resolution so that it can be reviewed with budget discussions, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale nonintoxicating malt liquor license, off sale nonintoxicating malt liquor license and on sale wine license for the period ending April 30, 1998, and August 31, 1998, respectively, subject to departmental approvals and the payment of sales and property taxes:

Paul Riesland and William Rouleau (Player's Sports Bar), 4024 Grand Avenue, transferred from Roby's Grandstand, Inc. (The Grandstand), same address.

Resolution 97-0937 was unanimously adopted.

Approved December 1, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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temporary on sale intoxicating liquor license, subject to departmental approvals:

Marshall School, 1215 Rice Lake Road, for May 1, 1998, with Kevin Robb, manager, with an application fee of \$200.

Resolution 97-0938 was unanimously adopted.

Approved December 1, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale intoxicating liquor license, subject to departmental approvals:

ALS Association, a Minnesota Chapter (Eggebrecht Chevrolet/Zenith Kremer Fundraiser), Army National Guard Building, for January 17, 1998, with Sue Kolquist, manager, with an application fee of \$200.

Resolution 97-0939 was unanimously adopted.

Approved December 1, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Carlson Tractor and Equipment be and hereby is awarded a contract for furnishing and delivering two new Holland LX665 skid-steer loaders with Erskine snowblowers for the street maintenance division in accordance with specifications on its low specification bid of \$53,384.19, terms net 30, FOB shipping point, \$33,098.20 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2006, Object V629 and \$20,285.99 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2007, Object V716.

Resolution 97-0943 was unanimously adopted.

Approved December 1, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

DEFERRED COMPENSATION PLAN COMMISSION

Jean Mattson for a term expiring December 31, 2001.

Resolution 97-0946 was unanimously adopted.

Approved December 1, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 97-1201-10, to the neighborhood matching grants fund agreement with the citizens' coalition of Gary-New Duluth, extending the term of said agreement for an additional one year period at no change in project cost.

Resolution 97-0935 was unanimously adopted.

Approved December 1, 1997

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR PRETTNER SOLON:

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

WHEREAS, the city of Duluth as a suballocator is authorized to administer 1998 LIHTCs in an amount to be announced by the Minnesota housing finance agency in early 1998; and

WHEREAS, in accordance with Section 42 of the Internal Revenue Code of 1986, as amended, a qualified allocation plan for 1998 (the plan) setting forth criteria governing the award of the city's LIHTCs has been prepared; and

WHEREAS, the Duluth housing trust fund board of directors met on November 13, 1997, and recommended approval of the plan to the city council; and

WHEREAS, the plan was made available for review and written comments by the general public and a public hearing was held on December 1, 1997.

NOW, THEREFORE, BE IT RESOLVED, that the 1998 city of Duluth low income housing tax credit qualified allocation plan, on file in the office of the city clerk as Public Document No. 97-1201-11, is hereby approved.

Resolution 97-0940 was unanimously adopted.

Approved December 1, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0948, by Councilor Prettner Solon, granting a special use permit to Demolition Landfill Services, Inc., for a select waste disposal, demolition debris landfill for property located at 1100 Gary Street (Saari), was introduced for discussion.

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

Lance Olson encouraged support for the resolution and noted the following: WLSSD presently has the only site available for demolition debris and it would be valuable to the community to have an alternative; environmental pollution is not a valid concern because he is familiar with the operation of landfills for demolition debris and knows that if it is well managed, there is little risk of environmental hazards; science indicates that this is a good place for a landfill and the Minnesota pollution control agency (MPCA) is in favor of it; and opposition to it is politically motivated.

Tim Blazevic urged defeat of the resolution and stated that for the last ten years he has actively worked, and failed, to see to it that the landfill in Gary was run properly. He spoke of the lack of MPCA monitoring of the previous landfill operation until residents of the area organized and complained, and he noted that even after monitoring, the previous landfill owner/operator continued to violate regulations until the landfill was ordered closed, which he believes, has not yet been done properly. Mr. Blazevic expressed concern that a new MPCA inspector would not be any more reliable than the old one. He gave numerous detailed examples, based on his own research, why he believes the application for this new landfill, which has been submitted to the planning commission, exaggerates and states erroneous information with regard to how much money can be saved by residents if they use the proposed landfill. Mr. Blazevic concluded by stating that a landfill does not belong in the middle of a residential neighborhood.

Bill Spehar requested that the council consider the following issues when voting on this resolution: if this landfill is to be allowed, it will be the only landfill within city limits in the state of Minnesota; the consent decrees issued by the court in 1992 and 1993 were violated again and again by the previous landfill operator; a petition containing over 800 signatures and representing approximately 98 percent of residents in Gary-New Duluth has been submitted in opposition to this new permit; the area proposed for the site of the landfill is only two blocks from neighborhood homes, and three blocks from a new school that is known throughout the state as an environmental



school which has just won an award for outstanding environmental standards; and the proposed site is within 100 yards and adjacent to Sergeants Creek which flows into the St. Louis River. He urged the defeat of the resolution.

Joe Stojevich opposed any landfill permitting in Gary-New Duluth or any other part of the city because it is not in the best interest of the community.

Michael Hillmeyer encouraged issuance of a landfill permit to Darren Saari. He asked the council not prejudice themselves against this project because of the history that has gone on with regard to the previous landfill operator. Mr. Hillmeyer gave a positive character reference on behalf of Mr. Saari, noting his accomplishments with the MPCA. He stated this is an opportunity for the council to take a checkered past and turn it into something positive by allowing Mr. Saari to fix a blighted area while operating the landfill the right way and turn it into an asset for the community by making it easier for people to dispose of their waste. Mr. Hillmeyer expressed confidence that if the landfill is well thought out and managed, and there would not be an adversarial environmental impact.

Barry Power, representing Wenck Associates, an engineering firm in Duluth that specializes in designing landfills nationwide and has been retained by Mr. Saari, supported issuance of a landfill permit to Demolition Debris Landfill. He noted that landfills are regulated by the MPCA, which is one of the most rigorous in the nation; that expensive testing and monitoring of this site, which is not required, has already taken place; that the applicant will take total responsibility for the landfill; that the area for the site is zoned appropriately and allows for landfills as a permitted use; and that it is customary to put landfills next to previous landfills to save and preserve green space.

Darren Saari, president of Demolition Landfill Services, Inc., stated he previously held the position of solid waste officer for the MPCA and explained that he is experienced in the permitting and regulating of these types of facilities. He reviewed his credentials in the field of environmental preservation. Mr. Saari stated that this site was chosen because it is the only area in the city of Duluth where zoning provides for a landfill as a permitted use. He noted that he has met all of the conditions required in the Duluth City Code regarding landfills and questioned the purpose of including criteria for landfills in the Zoning Code if the intent is not to allow them in the city limits. He stated that his facility will be clean and well managed and that any prior operator's actions should not be a consideration in this matter. Mr. Saari noted that information stated in a petition is exaggerated and/or inaccurate.

Responding to Councilor Prettner Solon, Mr. Saari acknowledged that he assisted in writing the ordinance that is now part of the Duluth City Code while he was employed by the MPCA. He stated that he was not charged with oversight of this site as an officer of the MPCA. Mr. Saari agreed that the previous owner had many compliance violations, but added that there have also been statements made by the community that are unsubstantiated and not true. He stated that it is his intent to operate a transfer station on the property.

Responding to Councilor Hales, Mr. Saari stated he does not intend to apply for an asbestos disposal permit or accept hazardous waste or toxic chemicals. He stated that the landfill access is served by Becks Road which is a truck route and does not pass through the neighborhood.

William Burns, attorney for Demolition Landfill Services, Inc., and Mr. Saari, requested that the petition received from the community club be stricken from the record because it contains two obvious misrepresentations to the signers, mainly, that this facility proposes to accept asbestos and that the MPCA intends to issue a permit without any hearings. He added that both statements are false and disqualify the petition from council consideration. Mr. Burns requested that the record show that at the time this application was submitted to the planning department, it was made clear that this property will be leased by Mr. Saari from a person who had been involved with the prior

operation of the landfill at the site and that Mr. Saari accepts 100 percent responsibility for the site under the lease and under any permit that is issued. With regard to the what the Duluth City Code allows, he noted that the ordinance regulating landfills is only three years old and provides the appropriate zoning. He disputed statements made by Mr. Blazevic regarding disposal costs and questioned whether Mr. Blazevic is speaking in the interests of his employer, Voyageur Services, Inc. Mr. Burns encouraged councilors to look closely at all of the information submitted regarding this issue.

Responding to Mr. Burns regarding Mr. Blazevic's interests in this issue, Councilor Talarico referred to Public Document No. 97-1201-17(c), which states the position of Voyageur Services, Inc.

Mr. Blazevic stated that on two occasions after community members had been invited to tour the premises during inspections, he and others were threatened and denied access to the property.

Joe Balach stated that the use of the term "zoned appropriately" is a travesty and he reviewed the history of how zoning allowing for a landfill as a permitted use was established. He urged councilors to right a wrong that was done many years ago and deny this permit.

Councilors Rapaich, Bohlmann and Keenan stated that landfills should not be located in or near neighborhoods and they urged councilors to support the neighborhood and oppose the issuance of this permit on the basis that a landfill is not an appropriate use for this property.

Councilor Prettner Solon urged the council to oppose this resolution and to note that anyone who is predisposed to vote in favor of it should consider returning it to the planning commission to determine the proper conditions that should be included in it before passing it. She reminded councilors that the planning commission recommendation is to vote it down on the basis that there has been 20 years of hardship on the community due to the presence of the landfill and that the previous operator is still the owner of the property and retains control over it. Councilor Prettner Solon added that Mr. Saari may have good intentions, but the history precludes granting a permit to him at this time.

Councilor Hogg stated that due to his membership on the planning commission before being elected as a councilor, he is familiar with this issue. He stated that he no longer believes that the content of the debris buried in the old landfill is harmless, and that the MPCA clearly dropped the ball, in this case, because of the continuous pollution affecting Sergeant's Creek, which source cannot be identified. Councilor Hogg agreed that there is no justification for allowing a landfill to be located in a residential neighborhood and that he will oppose this resolution.

President Hardesty stated she does not support a landfill in this neighborhood and that she will not support the resolution.

Several councilors stated that they are not prejudiced against Mr. Saari and encouraged him to pursue alternative sites that are out of the city limits.

Resolution 97-0948 failed upon a unanimous vote (Public Document No. 97-1201-12).

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of portions of 47th Avenue West and Oneota Street legally described as: That part of 47th Avenue West in the recorded plat of Oneota, lying south of a line from the northeast corner of Lot 8, Block 18, Oneota, to the northwest corner of Lot 1, Block 19, Oneota and north of a line from the southeast corner of said Lot 8 to the southwest corner of said Lot 1; and

That part of Oneota Street in the recorded plat of Oneota bounded by the lines described as follows:

- (a) The platted center line of Oneota Street;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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- (b) The southwesterly right-of-way line of the Bong Bridge ramp;
- (c) The north line of Block 19 and the westerly extension of said north line of Block 19;
- (d) The platted center line of 47th Avenue West; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its November 18, 1997, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of 47th Avenue West and Oneota Street described above and as more particularly described on Public Document No. 97-1201-13.

BE IT FURTHER RESOLVED, that all of that portion of Oneota Street described above be retained as utility easement.

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

Resolution 97-0949 was unanimously adopted.

Approved December 1, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, pursuant to Resolution No. 95-0962 adopted on November 6, 1995, the city of Duluth (the city), entered into an agreement with Neighborhood Housing Services of Duluth, Inc., (NHS), in which NHS agreed to operate the Central Hillside residential off-street parking project (the agreement), payable from the 1994 Federal Program Fund 263 - community development - Central Hillside residential parking project Account 6261.

WHEREAS, Amendment No. 1 to the agreement was authorized by city council Resolution No. 96-1029R, adopted on December 16, 1996.

WHEREAS, both parties desire to further amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 2, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 97-1201-14, to the agreement with NHS which extends the term of the agreement to December 31, 1998, with no change in compensation under terms of the agreement.

Resolution 97-0951 was unanimously adopted.

Approved December 1, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Oneida Realty Company be and hereby is awarded a contract for furnishing 1998 janitorial services for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$11,100, terms net 30, FOB job site, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5310.

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

Resolution 97-0942 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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

Nays: Councilor Bohlmann -- 1

Approved December 1, 1997

GARY L. DOTY, Mayor

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BY PRESIDENT HARDESTY:

RESOLVED, that the proper city officers are authorized and directed to execute that certain agreement filed as Public Document No. 97-1201-15, with Duluth-Superior Public Access Community Television, Inc., for providing cablecasting, training, production and administrative services relating to public access television, for a sum of \$140,000 to be paid from General Fund 100-015-2050-5541.

Resolution 97-0926 was unanimously adopted.

Approved December 1, 1997

GARY L. DOTY, Mayor

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Resolution 97-0931, by President Hardesty, authorizing proper city officials to modify Agreement No. 17735 increasing total contract amount by \$289,802 in STRIDE program funds received by St. Louis County and extending contract through December 31, 1997, was introduced for discussion.

Responding to Councilor Hogg, City Attorney Dinan stated that this funding is for a six month period ending on December 31, 1997.

Councilor Hogg requested that in the future, grants such as this should be presented to the council for acceptance and approval before the funds are spent.

Resolution 97-0931 was adopted as follows:

BY PRESIDENT HARDESTY:

RESOLVED, that proper city officers are hereby authorized to modify Agreement No. 17735 between the St. Louis County board of commissioners and the city of Duluth job training programs division by extending the contract dates through December 31, 1997 and increasing the total S.T.R.I.D.E. program funds by \$289,802, bringing the total S.T.R.I.D.E. program budget to a total of \$833,793. A copy of this modification shall be on file in the city clerk's office as Public Document No.97-1201-16.

FURTHER RESOLVED, that monies received under this modification shall be deposited in Fund 269, Budget Item 6276.

Resolution 97-0931 was unanimously adopted.

Approved December 1, 1997

GARY L. DOTY, Mayor

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Resolution 97-0952, by President Hardesty, authorizing proper city officials to enter into an agreement to lease space in the job training programs division offices to the Lake Superior Area Labor Management Association (LSALMA) and to provide clerical support for the LSALMA staff person occupying the leased space; rent to be paid is \$725 per month, was introduced for discussion.

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

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BY COUNCILOR YOUNG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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RESOLVED, that Choremasters, Division of Goodwill Industries, be and hereby is awarded a contract for furnishing 1998 janitorial services for the water and gas office building at 414 West First Street in accordance with specifications on its low specification bid of \$14,028, terms net 30, FOB job site, \$7,014 payable out of Water Fund 510, Dept./Agency 900, Organization 0500, Object 5319 and \$7,014 payable out of Gas Fund 520, Dept./Agency 900, Organization 0500, Object 5319.

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

Resolution 97-0941 was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Approved December 1, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-0940 to Premier Lawn Service for furnishing snow plowing of municipal parking lots and ramps be amended to increase the amount by \$28,238 for a new total of \$53,238, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5441.

Resolution 97-0944 was unanimously adopted.

Approved December 1, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Lake Superior College Fire Fighting School be and hereby is awarded a sale for one 1973 Ford L9000 general fire truck pumper in accordance with its bid of \$10,000, terms net 30, FOB destination, revenue to General Fund 100.

Resolution 97-0945 was unanimously adopted.

Approved December 1, 1997

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the first time:

BY COUNCILOR HOGG

97-038 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE YEAR 1998.

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BY COUNCILOR HOGG

97-039 - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 1998, APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

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BY COUNCILOR HOGG AND PRESIDENT HARDESTY

97-040 - AN ORDINANCE RELATING TO THE REGULATION OF RECREATIONAL TRAILS, AMENDING SECTION 35-6 OF THE CITY CODE.

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BY COUNCILOR HOGG AND PRESIDENT HARDESTY

97-042 - AN ORDINANCE PERTAINING TO THE REGULATION OF SNOWMOBILES IN

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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DULUTH; AMENDING SECTION 33-225 AND ADDING NEW SECTIONS 33-240, 33-241, 33-242 AND 33-243 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

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BY COUNCILOR PRETTNER SOLON

97-041 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO CENTER CITY HOUSING AND SAMMY'S PIZZA/TERRY PERELLA FOR A FIXED AWNING IN THAT PART OF WEST FIRST STREET AND FIRST AVENUE WEST.

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BY PRESIDENT HARDESTY

97-043 - AN ORDINANCE AMENDING SECTION 2-139 OF THE DULUTH CITY CODE PERTAINING TO REPORTING REQUIREMENTS OF FINANCIAL ASSISTANCE RECIPIENTS OF THE CITY.

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

Erik Peterson spoke in opposition of this amendment and noted that there is need for stricter accountability for corporate subsidies statewide. He stated that the amendment to the ordinance being proposed is a step backward and a step towards eroding the ordinance. Mr. Peterson continued that he has been asked by a number of legislators and commissioners at recent meetings he has attended why Duluth is out of compliance with 1995 state law which requires some basic minimal reporting requirements. He noted other reports that the state requires to be completed before giving money to certain individuals and businesses which are not considered to be excessive and stated that, in comparison, the reports required in the living wage ordinance are not excessive and are appropriate in terms of accountability. Mr. Peterson encouraged councilors not to make a hurried decision and to seek some middle ground to ensure there is strong accountability, which he believes this amendment strips away.

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The meeting was adjourned at 9:25 p.m.

JEFFREY J. COX, City Clerk

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, December 15, 1997, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

97-1215-01 Amy Hedenberg, et al. (seven signatures) submitting petition to construct a pressure sanitary sewer in Bellis Street from Minneapolis Avenue to 1,000 feet easterly. -- Assessor

97-1215-43 Arrowhead Security Systems, Inc., submitting communication pertaining to the proposed reporting requirements of financial assistance recipients of the city (97-043-O). -- Received

97-1215-40 Clayt Kruger submitting communication pertaining to proposed establishment of a user charge for excessive consumption of police services (97-036-O). -- Received

97-1215-39 Lighthouse for the Blind submitting communication pertaining to proposed study of the issue of tax exempt organizations contributing towards essential public services (97-0953R). -- Received

97-1215-41 Walter W. Wallen submitting communication pertaining to BZA appeal in conjunction with an addition to the Lincoln Park School (97-0929R). -- Received

97-1215-42 The following submitting communications pertaining to proposed 1998 budget (97-039-O): (a) Duluth Area Family Services Collaborative; (b) Ian Hassenstab; (c) Human Development Center; (d) Lincoln Park School. -- Received

97-1215-44 The following submitting communications pertaining to the proposed Spirit Mountain recreation area master plan amendment (97-0870R): (a) Mary Boyle Anderson; (b) Edward William Kale. -- Received

97-1215-02 The following submitting communications pertaining to the proposed vacation of skywalk easements in the Holiday Center (Lyric Block) (97-0819R): (a) Building Owners and Managers Association; (b) Greater Downtown Council; (c) Holiday Center merchants (17 signatures). -- Received

97-1215-45 The following submitting communications pertaining to the proposed regulation of snowmobiles in Duluth (97-042-O): (a) Duluth Convention and Visitors Bureau; (b) Eric Hofstad; (c) Jeff Jackson; (d) Thomas Jubie; (e) Minnesotans for Responsible Recreation (supported by ten signatures); (f) Lance G. Reasor. -- Received

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**REPORTS OF OFFICERS**

97-1215-04 Assessor submitting letters of sufficiency pertaining to:

(a) Construction of a pressure sanitary sewer in Bellis Street from Minneapolis Avenue to 1,000 feet easterly;

(b) Petition to vacate 27th Avenue East between Jefferson and Alexander Street. -- Received

97-1215-05 Community development and housing division submitting HRA housing rehabilitation report for September, 1997. -- Received

97-1215-03 Fire marshal submitting communication pertaining to BZA appeal for property located at 2427 West Fourth Street (Lincoln Park School) (97-0929R and 97-0930R). -- Received

97-1215-06 Purchasing agent submitting emergency purchase orders for: (a) Professional engineering services for the Chester Bowl ski lift towers alignment awarded to Salo Engineering; (b) Demolition of two buildings at 101 Spring Street awarded to Salo Trucking Company. -- Received

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### REPORTS OF BOARDS AND COMMISSIONS

97-1215-10 Board of directors of trust for Miller-Dwan Medical Center board minutes of October 16, 1997, meeting. -- Received

97-1215-07 Building appeal board minutes of November 12, 1997, meeting. -- Received

97-1215-08 Civil service board minutes of October 7, 1997, meeting. -- Received

97-1215-09 Housing and redevelopment authority minutes of: (a) August 26; (b) September 23 1997, meetings. -- Received

97-1215-11 Planning commission minutes of: (a) September 24; (b) October 22, 1997, meetings. -- Received

97-1215-12 Sanitary sewer board of WLSSD minutes of November 17, 1997, meeting. -- Received

97-1215-13 Tree commission minutes of November 10, 1997, meeting. -- Received

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### REPORTS OF COUNCILORS

Councilor Hogg reported that a public hearing regarding the 1998 budget was held on December 8, 1997 (Public Document No. 97-1215-46).

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### OPPORTUNITY FOR CITIZENS TO BE HEARD

Franciane Enderle spoke regarding ongoing problems of harassment and violence toward herself and her family by gang members. She complained that nothing is done when the police are called, which forces them to stand up for themselves and results unjustly in their own troubles with the police. Ms. Enderle questioned where the justice is.

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### INTRODUCTION AND CONSIDERATION OF ORDINANCES

Councilor Hogg moved to consider ordinances 97-040 and 97-042 at this time, which motion was seconded and unanimously carried.

BY COUNCILOR HOGG, PRESIDENT HARDESTY AND COUNCILORS BOHLMANN AND KEENAN

97-040 (9357) - AN ORDINANCE RELATING TO THE REGULATION OF RECREATIONAL TRAILS, AMENDING SECTION 35-6 OF THE CITY CODE.

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BY COUNCILOR HOGG, PRESIDENT HARDESTY AND COUNCILORS BOHLMANN AND KEENAN

97-042 - AN ORDINANCE PERTAINING TO THE REGULATION OF SNOWMOBILES IN DULUTH; AMENDING SECTION 33-225 AND ADDING NEW SECTIONS 33-240, 33-241, 33-242 AND 33-243 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Hogg moved to table Ordinance 97-042 for a public hearing, which motion failed upon the following vote:

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

Nays: Councilors Hales, Prettner Solon, Rapaich, Talarico and Young -- 5

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



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

Nays: Councilor Prettner Solon -- 1

Rodney Skorich urged the councilors to vote on this resolution only after they research the issues and facts, and without listening to the rumors about snowmobiling. He continued that all snowmobile drivers should learn the rules and regulations of snowmobiling in Duluth, and suggested that councilors read the rules themselves before voting on this ordinance.

John Goldfine, chair of the Duluth Convention and Visitors' Bureau, stated that the city already has a highly restrictive ordinance in place and that the city should come together with an enforceable and fair ordinance that will work for everyone.

Gerard Lawson stated that the current ordinance was carefully written and should not be changed. He added that there will always be lawbreakers on the streets whether this ordinance is passed or not. Mr. Lawson encouraged councilors to make the decision based on facts, and that there needs to be respect on both sides.

The following individuals spoke against the ordinance: Lance Reasor, Jeff Mausolf, Sean Flaherty, Clay Cich and Pete Gassert. Reasons for and statements made in opposition of the ordinance were as follows: it sends the wrong message to snowmobilers outside of Duluth when the city needs this winter tourist season is down; it is unnecessary because the current ordinance is working well for the parks and recreation department; Bob Troolin, manager of street maintenance in the public works department, has stated that snowmobiles have not caused damage to city streets; Sgt. Mark Wick, police department, has stated that the department is not aware of any pedestrian snowmobile accidents; it will send a negative message to snow machine manufacturers that Duluth is not supportive of the industry, causing loss of sponsorship of and termination of snow machine races, which will result in loss of tourism dollars; snow machine users need to use city streets to get to the trails.

The following individuals spoke in favor of the ordinance: Bruce and Judy Derauf, James Harvie, Ken Loeffler Kemp, Cheryl Dannenbring, Pam Johnson, Virginia Border, Phyllis Teige, Grey Doffin, Brandon Krosch, Kathy Winkler and Rick Edwards. Reasons for and statements made in support of the ordinance were as follows: other cities of comparable size throughout Minnesota have banned snow machines on public streets because it is dangerous; passage of this ordinance will improve the public health of the community; the issue should not be about conventions or races to be held in Duluth, but about the safety of the citizens of Duluth, the right for protection from noise of the machines and the damage caused by the use of on city streets; it will prevent Canal Park from filling up with snow machines that cause pollution and noise; people live in Duluth for its peace and tranquility and the snow machines disturb that; it is a common sense ordinance and designates trails in Duluth that people should use to prevent any trails crossing through Duluth; the city should not be held hostage to a group of people who want to snowmobile in Duluth; it will prevent accidents of the future; it is only a matter of time before something happens; it will prohibit use of the alleys late at night to run machines; machines pack down the snow which makes it harder to plow city streets; trailers are made to move machines from houses to designated trails so there is no need for them to be allowed in the city.

Rick Edwards questioned if parking lots will be expanded to accommodate people who must trailer their machines from their house to the trails so they will not have to park on streets and highways.

Councilor Hogg expressed his wish to table this ordinance because he has not been aware of some issues that have been presented tonight. He continued that he understands how citizens are concerned about the quality of the community and stated that both sides need to look at the

ordinance and come to some agreement. Councilor Hogg questioned how the city will be able to protect the value and quality of the community and still allow people to enjoy winter activities as they would like to.

Councilor Rapaich agreed that there is a need to get both groups together to resolve this issue.

Councilor Hales stated that the council needs to move forward with these ordinances and start a task force for possible changes at a later time.

Councilor Bohlmann stated she believes this issue has come to a head because of a proposed snow machine trail to Canal Park. She continued by saying that there needs to be some changes in the ordinance and supported tabling the ordinance for more discussion.

Mayor Doty stated that this is an issue for all of the citizens of Duluth and that both sides of the issue need to be looked at. He suggested that a task force comprised of individuals from both sides be established to look at the issue and that he would be happy to bring the results of the discussion back to the council.

Councilor Keenan moved to table Ordinance 97-042 to allow the mayor to formulate a task force, which motion failed upon the following vote:

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

Nays: Councilors Hales, Prettner Solon, Rapaich, Talarico and Young -- 5

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

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

Nays: Councilors Bohlmann and Keenan -- 2

Ordinance 97-042 failed upon the following vote (Public Document No. 97-1215-38):

Yeas: Councilor Bohlmann and President Hardesty -- 2

Nays: Councilors Hales, Hogg, Keenan, Prettner Solon, Rapaich, Talarico and Young -- 7

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Regarding Ordinance 97-040, Councilor Hogg reviewed that the ordinance does not change how the parks department administers regulations or snowmobilers, but that the parks department would be required to have the city council approve the creation of a new trail or the expansion of a trail for motorized vehicles.

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

Yeas: Councilors Bohlmann, Hogg, Keenan, Talarico and President Hardesty -- 5

Nays: Councilors Hales, Prettner Solon, Rapaich and Young -- 4

- - -

President Hardesty called the public hearing regarding the proposed amendment to reporting requirements of financial assistance recipients of the city, to order (Public Document No. 97-1215-47).

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President Hardesty adjourned the public hearing and the regular order of business was resumed.

- - -

President Hardesty moved to consider Ordinance 97-043 at this time, which motion was seconded and unanimously carried.

BY PRESIDENT HARDESTY

97-043 (9359) - AN ORDINANCE AMENDING SECTION 2-139 OF THE DULUTH CITY CODE PERTAINING TO REPORTING REQUIREMENTS OF FINANCIAL ASSISTANCE RECIPIENTS OF THE CITY.

President Hardesty requested that the ordinance be tabled so that the Coalition for a Living Wage has time to talk with the administration and come to some agreement upon amendments to the ordinance.

Councilor Talarico moved to amend the ordinance to add the following to the last line: "and such records shall be fully verifiable and subject to audit by the city upon reasonable notice to the employer," which motion was seconded for discussion. He stated this would provide a way that the information being provided to the city from a business is accurate.

President Hardesty questioned if the names in a business would be private or public information and expressed concern that the names not be part of a public report.

City Attorney Dinan reviewed that the information having to do with local city projects is subject to the state data practices act and there is no provision in there which makes that particular information private.

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

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

Nays: Councilor Bohlmann -- 1

Councilor Talarico's amendment was unanimously carried.

Councilor Hogg stated his disappointment that this issue is coming to the council as a controversial issue. He continued by saying that the administration and the living wage coalition should have come to a mutual agreement on this issue as this is setting up a controversial atmosphere on this issue. Councilor Hogg felt there is a willingness on both sides to sit down and discuss this issue.

Councilor Bohlmann voiced concern that the administration is going to strip away at this ordinance until there is nothing left of it. She continued by saying that if a business wants city subsidies, they need to follow the reporting requirements.

President Hardesty reviewed that the language proposed in the ordinance was not the language proposed by the coalition but proposed through the administration's efforts to create a different requirement with the living wage and to modify it to make it more acceptable. She voiced concern that by approving the ordinance it would wipe out the reporting mechanism as originally requested and that the pieces are in place in the community to work it out through conversation.

Councilor Talarico stated that there is sincerity with the living wage coalition in looking at change, but that the fact still remains that reporting requirements are preempted by state law. He said that by having employee names and pay rates public, it may give an unfair advantage to a competitor. Councilor Talarico continued by saying that both sides need to come to the table with no predispositions on the issue and that there is agreement by all that the goal is good jobs while being competitive.

Councilor Prettner Solon expressed concern that both sides have become polarized on the issue even when both sides agree to the goal of living wage jobs, but have different ways of going about getting those jobs. She reviewed that Duluth is out recruiting businesses, but that there is not a lot of money to be handed out to prospective employers. Councilor Prettner Solon stated that the city is at a disadvantage when it has to propose something that limits the number of jobs it can attract here, when the same restrictions do not apply to other cities around the state. She urged support of the amended ordinance as it would help attract employers who provide a living wage.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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

Yeas: Councilors Bohlmann, Hogg and President Hardesty -- 3

Nays: Councilors Hales, Keenan, Prettner Solon, Rapaich, Talarico and Young -- 6

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

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

Nays: Councilor Bohlmann -- 1

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**RESOLUTIONS TABLED**

Councilor Hogg moved to remove Resolution 97-0916, approving DEDA's general, debt service, capital project and storefront loan fund budgets for 1998, from the table, which motion was seconded and unanimously carried.

Councilor Bohlmann stated that the city should not be spending so much money on new skywalks when there are problems with the existing skywalks.

Resolution 97-0916 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the city council of the city of Duluth does hereby approve the general fund budget, the debt service fund budget, the capital project fund budget and the storefront loan fund budget of the Duluth economic development authority for the year 1998.

Resolution 97-0916 was adopted upon the following vote:

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

Nays: Councilor Bohlmann -- 1

Approved December 15, 1997

GARY L. DOTY, Mayor

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Councilor Hogg moved to remove Resolution 97-0932, distributing the estimated 1998 tourism taxes of hotel-motel and food and beverage, from the table, which motion was seconded and unanimously carried.

Councilor Keenan stated that he will abstain from voting on this resolution since Grandma's, Inc., receives money from the Duluth Convention and Visitors Bureau.

Resolution 97-0932 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the 1998 tourism taxes of hotel-motel and food and beverage, as estimated, be distributed in the following manner:

	3%	1%	1%	Add'l 2%	TOTAL
	<u>Hotel-Motel</u>	<u>Hotel-Motel</u>	<u>Food &amp; Bev</u>	<u>Hotel-Motel</u>	
Duluth public arts commission			20,000	10,000	30,000
Sister cities			22,000	13,600	35,600
DECC	516,200		24,100	15,600	555,900
Convention and					

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

Visitors Bureau	278,000	92,100	337,500	87,300	794,900
Heritage and Arts Center		89,900	49,600	8,000	147,500
Spirit Mountain			48,100	25,000	73,100
Donations			30,000	20,000	50,000
Transfer to general fund	41,800	97,000	240,000	81,000	459,800
Transfer to debt service	<u>          </u>	<u>          </u>	<u>379,700</u>	<u>260,500</u>	<u>640,200</u>
	836,000	279,000	1,151,000	521,000	2,787,000

Resolution 97-0932 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Keenan -- 1

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

Councilor Hogg moved to remove Resolution 97-0933, approving the fiscal year January 1, 1998, to December 31, 1998, operation budget of the Duluth airport, from the table, which motion was seconded and unanimously carried.

Resolution 97-0933 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the operation budget for the fiscal year January 1, 1998, to December 31, 1998, in the amount of \$1,770,314 for the Duluth airport authority is hereby approved.

FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 1 of each year.

Resolution 97-0933 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

Councilor Hogg moved to remove Resolution 97-0934, approving the fiscal year January 1, 1998, to December 31, 1998, operation budget of the Duluth transit authority, from the table, which motion was seconded and unanimously carried.

Resolution 97-0934 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the operation budget for the fiscal year January 1, 1998, to December 31, 1998, in the amount of \$8,790,271 for the Duluth transit authority is hereby approved.

FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 1 of each year.

Resolution 97-0934 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

Councilor Hogg moved to remove Resolution 97-0947, approving the operation budget for the fiscal year January 1, 1998, to December 31, 1998, in the amount of \$9,375,745 for Duluth Steam District No. 2, from the table, which motion was seconded and unanimously carried.

Resolution 97-0947 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the operation budget for the fiscal year January 1, 1998, to December 31, 1998, for Duluth Steam District No. 2 in the amount of \$9,375,745 is hereby approved.

Resolution 97-0947 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

Councilor Prettner Solon moved to consider ordinances 97-038 and 97-039 at this time, which motion was seconded and unanimously carried.

BY COUNCILOR HOGG

97-038 (9355) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE YEAR 1998.

- - -

BY COUNCILOR HOGG

97-039 (9356) - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 1998 APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

Councilor Hogg moved to amend Ordinance 97-039 by adding a new Section 9 to read as follows: "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 on going funding source, or partial funding source with a local match required. The future fiscal impact of the program on the budget will be discussed prior to acceptance of the grant. That programs funded by state and federal grants shall be reduced or eliminated accordingly if state or federal revenues are reduced or eliminated and another funding source is not secured. Local funding will be available only after a full review to determine whether the program should be continued," which motion was seconded for discussion.

Administrative Assistant Nollenberger stated that this amendment would make it clear in the statement of purpose each time a grant comes before the council what type of grant it is and identify where the funding source is coming from and if that source is short term.

Councilor Hogg's amendment was unanimously carried.

Councilor Keenan questioned whether the council needs to decide where to cut the \$355,800 in the budget, and Mr. Dinan replied that the council needs to decide where in the budget the money will be cut.

Councilor Hogg stated that it is not for the council to say where the administration is going to get the money from, it is for the administration to decide. He continued by saying that if the council does not approve the \$355,800, it is most likely because they do not want a tax increase and the purpose for the increase can be dealt with in another way.

Councilor Keenan moved to amend Ordinance 97-038, in sections 1 and 2, by decreasing the totals by \$355,800 to ensure there will not be a tax levy increase, which motion was seconded for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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

Councilor Keenan's amendment carried upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan and Young -- 5

Nays: Councilors Prettner Solon, Rapaich, Talarico and President Hardesty -- 4

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

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Rapaich and Young -- 6

Nays: Councilors Prettner Solon, Talarico and President Hardesty -- 3

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

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan and Young -- 5

Nays: Councilors Prettner Solon, Rapaich, Talarico and President Hardesty -- 4

- - -

Regarding Ordinance 97-039, Councilor Prettner Solon requested the councilors to take the \$355,800 out of the reserve fund since the budget will have to be amended, and the decision on where to take the money will be too hard for all the councilors to agree on.

Councilor Keenan stated that the administration will have to decide on where to make up the money for the police officers along with the pay increases for the employees. He continued to say that it is easy to raise taxes and harder to cut expenses, but challenged the administration to find a place to cut the budget.

Mayor Doty reminded the council that taxes have not been raised in Duluth for five years, and during the past years the department heads have been cutting things out of the budget. He continued by saying that this council states it wants to be a part of the budget process, but fails to offer suggestions on where to cut the expenses. Mayor Doty stated that he will cut the grant program officers from the police department budget to make up the shortage in the budget.

Councilor Hogg moved to amend Ordinance 97-039 to decrease the transfers account by \$355,800, which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan and Young -- 5

Nays: Councilors Prettner Solon, Rapaich, Talarico and President Hardesty -- 4

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

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan and Young -- 5

Nays: Councilors Prettner Solon, Rapaich, Talarico and President Hardesty -- 4

Councilor Hogg moved passage of Ordinance 97-039, as amended, and the same was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan and Young -- 5

Nays: Councilors Prettner Solon, Rapaich, Talarico and President Hardesty -- 4

- - -

The regular order of business was resumed.

- - -

Councilor Prettner Solon moved to remove 97-0742, withdrawing from joint powers agreement providing for the city's participation in a lobbying effort relating to legislation eliminating the personal property tax on power generating equipment, from the table, which motion was seconded and unanimously carried.

Resolution 97-0742 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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WHEREAS, by authority of Resolution 97-0716, adopted on August 25, 1997, the city is a party to a joint powers agreement identified as the coalition of utility cities providing for the city's participation in a lobbying effort relating to legislation eliminating the personal property tax on power generating equipment; and

WHEREAS, the city desires to withdraw from participation in such joint powers agreement;

NOW, THEREFORE, BE IT RESOLVED, that pursuant to paragraph six of such joint powers agreement the city hereby exercises its option to withdraw from participation in such agreement effective immediately.

RESOLVED FURTHER, that the city clerk is directed to send a certified copy of this resolution to the secretary of the coalition of utility cities.

Resolution 97-0742 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

At this time, 11:00 p.m., Councilor Hales moved to extend the meeting until 12:00 a.m., which motion was seconded and unanimously carried.

- - -

President Hardesty moved to remove 97-0952, authorizing proper city officials to enter into an agreement to allow a Lake Superior Area Labor Management Association (LSALMA) staff person to occupy space in the job training programs division offices and to provide clerical support for the LSALMA staff person occupying the space; reimbursement for services to be paid is \$725 per month, from the table, which motion was seconded and unanimously carried.

Resolution 97-0952 was adopted as follows:

BY PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement to allow an L.S.A.L.M.A. staff person to occupy space in the job training programs division offices to Lake Superior area management association (L.S.A.L.M.A.) and to provide clerical support for such staff person for the sum of \$725 per month, with funds received being deposited in Fund No. 269, Budget Item No. 6285. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 97-1215-14.

Resolution 97-0952 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

Councilor Talarico moved to remove 97-0231, authorizing the proper city officials to enter into an agreement with L.H.B. Engineers and Architects to provide professional engineering services for preliminary engineering survey and design for Michigan Street realignment in Lincoln Park business area, \$93,486, and Resolution 97-0245, authorizing Amendment No. 2 to Agreement No. 17299 with Architects IV, for providing certain additional architectural services to the city of Duluth in connection with the Lincoln Park business district revitalization, Phase II, in an amount not to exceed \$30,000, from the table, which motion was seconded and unanimously carried.

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

Dan Williams requested councilors to support the Lincoln Park project as there is a lot of support and enthusiasm from the business owners for this project. He continued by saying that the city will be rewarded in a couple years because of the changes made in this project.

Councilor Keenan stated that he has reservations about this project, but that he will support the



resolutions. He expressed concern that there is a lot of money being spent without commitments from business development for anchor stores in the district.

Councilor Bohlmann stated her support for these resolutions and that this area will be richly rewarded.

Councilor Young stated that government is at its best when government and business work together.

Councilor Hogg stated that he was persuaded by the enthusiasm of the business owners in Lincoln Park that this project will work and supports the resolutions.

Resolution 97-0231 was adopted as follows:

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete a preliminary engineering survey and design of streets in the Lincoln Park business area; and

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

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$93,486, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2165, Object 5303, to be reimbursed by municipal state aid (MSA) funding and T.H. 23 turnback.

Resolution 97-0231 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0245 was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers hereby authorize Amendment No. 2 to Agreement No. 17299 with Architects IV for the sum of not to exceed \$30,000, from Capital Fund 450, Agency 015, Org. 1997, Object C712, for providing certain additional architectural services to the city of Duluth in connection with the Lincoln Park business district revitalization, Phase II, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 97-1215-15.

Resolution 97-0245 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

### **MOTIONS AND RESOLUTIONS**

BY COUNCILOR HOGG:

RESOLVED, that the solid waste assessment roll for the period of March 1, 1996, to June 1, 1997, which is on file in the office of the city clerk as Public Document No. 97-0811-04, and which was confirmed by city council Resolution No. 97-0695, is hereby amended to delete the items contained on Exhibit A, filed as Public Document No. 97-1215-16, which were improperly included in said assessment roll.

Resolution 97-0954 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

BE IT RESOLVED, by the City Council of the City of Duluth, Minnesota (the "City"), as follows:  
Section 1. Certificates of Indebtedness, Purpose and Authorization.

1.1 Pursuant to the authority contained in Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 4755, the City is authorized to issue its certificates of indebtedness in anticipation of collection of taxes and state aids.

1.02 Pursuant to the authority herein recited, the City Council authorizes and directs the issuance, sale and delivery of certificates of indebtedness in anticipation of collection of taxes and state aids for the general fund of the City in the amount of \$9,000,000 to be dated January 21, 1998 (the "Certificates").

Section 2. Issuance and Sale of the Certificates. The terms and conditions of the Certificates and the sale thereof are set forth in the Official Terms of Offering, which is attached hereto as Exhibit A. Each and all of the terms and provisions set forth in the Official Terms of Offering are adopted and confirmed as the terms and conditions of the Certificates and the sale thereof, and the City Council shall meet at the time and place fixed therein to consider proposals for the purchase of the Certificates.

Section 3. Negotiated Sale. Evanson Dodge, Inc., independent financial advisor to the City, is hereby authorized to solicit proposals for the sale of the Certificates as provided by Minnesota Statutes, Section 475.60, subdivision 2(9) pursuant to the terms of the Official Terms of Offering.

Section 4. Subsequent Resolution. The form, specifications and provisions for repayment of the Certificates shall be set forth in agreements and subsequent resolutions of the City Council.

Resolution 97-0985 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the city is hereby authorized to contract with the Minnesota Council on Compulsive Gambling, Inc., for operation of a compulsive gambling prevention and education program for youth and seniors during 1998, at a cost to the city of \$106,280, which shall be payable from General Fund 015-1514 aid to other agencies.

Resolution 97-0964 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the city is hereby authorized to contract with Gamblers Intervention Services for the operation of an outreach gambling program during 1998 at a cost to the city of \$75,000, which shall be payable from General Fund 015-1514 aid to other agencies.

Resolution 97-0965 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the city is hereby authorized to renew an agreement with Delta Dental for 1998 for administrative services to the city in connection with its self funded employee dental plan

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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at a rate of \$1.85/month for single coverage, \$3.67/month for employee plus spouse and \$5.52/month for employee plus two or more dependents, at an estimated total cost of \$34,986, which shall be payable from Fund 633.

Resolution 97-0966 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Mid-America Business Systems be and hereby is awarded a contract for furnishing and delivering a microfilm reader/printer for the library department in accordance with specifications on its low specification bid of \$10,875, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2107, Object E731.

Resolution 97-0971 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Henry A. Anderson Agency be and hereby is awarded a contract for furnishing and delivering 1998 boiler insurance for the city of Duluth and the Duluth steam cooperative in accordance with specifications on its low specification bid of \$9,306, terms net 30, FOB destination, payable out of Self Insurance Fund 605, Dept./Agency 036, Organization 1654, Object 5360.

Resolution 97-0972 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that US West Communications, Inc., be and hereby is awarded a contract for furnishing the establishment of frame relay communications between city hall data processing division and various remote locations within the city of Duluth for the data processing division in accordance with specifications on its low specification bid of \$11,552.59, terms net 30, FOB destination, payable out of various funds, dept./agencies, organizations, objects.

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

Resolution 97-0973 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that A.W. Kuettel and Sons, Inc., be and hereby is awarded a contract for 1997 roofing (Phase II) for Memorial Park community center, Lincoln Park community center, Grant community center and Indian Point campground (two buildings) for the city architects division in accordance with specifications on its low specification bid of \$24,325, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1997, Object C713.

Resolution 97-0994 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Cartier Agency, Inc., be and hereby is awarded a contract for furnishing property insurance for city owned structures in accordance with specifications on its low specification proposal of \$45,890, terms net 30, FOB job sites, payable out of Self Insurance Fund 605, Dept./Agency 036, Organization 1650, Object 5441.

Resolution 97-0998 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Johnson Carpet and Tile Company be and hereby is awarded a contract for furnishing and installing 2,125 square feet of protective flooring consisting of interlocking mats secured to floor at the Morgan Park Goodfellowship Community Center in accordance with specifications on its low specification bid of \$14,343.25, terms net 30, FOB job site. The normally assessable portion of the project be paid from the 1997 Federal Program Fund 262 community development - Goodfellowship Community Center Phase II - Project Account No. 6008 in an amount not to exceed \$17,000.

Resolution 97-1007 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Gaylord Information Systems be and hereby is awarded a contract for furnishing and delivering automated library systems for the Duluth public library in accordance with specifications on its low specification bid of \$408,704, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2107, Object E728.

Resolution 97-1008 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the proper city officers are hereby authorized to execute a uniform agreement for operation of the St. Louis County violations bureau relating to the collection of parking tickets by such bureau and the distribution of revenues from such collection, which agreement is on file in the office of the city clerk as Public Document No. 97-1215-17.

Resolution 97-1009 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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

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

<u>Licensee</u>	<u>Gambling site</u>	<u>Date application filed</u>
Duluth Softball Players Association, Inc.	Player's Sports Bar	December 8, 1997
Pequaywan Area Trail Blazers, Inc.	Mr. Lucky's Bar & Billiards	November 26, 1997
Pequaywan Area Trail Blazers, Inc.	Incline Station	November 26, 1997
VFW Post 137	2024 West Superior Street	November 25, 1997

Resolution 97-1011 was unanimously adopted.  
Approved December 15, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

ENVIRONMENTAL ADVISORY COUNCIL

Brian L. Fredrickson (environmental) for a term expiring January 5, 2001.

Resolution 97-0960 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

HOUSING AND REDEVELOPMENT AUTHORITY

Greg Hansen for a term expiring January 6, 2003.

Resolution 97-0961 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

PLANNING COMMISSION

Alan Billington and Ruthann Schnell for term expiring December 31, 2001.

Resolution 97-0962 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of heavy equipment mechanic which were approved by the civil service board on October 7, 1997, and which are filed with the city clerk as Public Document No. 97-1215-18, are approved. This classification remains represented by the basic unit and compensated at Range 28, \$2,424 to \$2,869 per month (1996 rates).

Resolution 97-0967 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of welder which were approved by the civil service board on October 7, 1997, and which are filed with the city clerk as Public Document No. 97-1215-19, are approved. This classification remains represented by the basic unit and compensated at Range 28, \$2,424 to \$2,869 per month (1996 rates).

Resolution 97-0968 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed specifications for the civil service classification of community liaison which were approved by the civil service board on December 2, 1997, and which are filed with the city clerk as Public Document No. 97-1215-20, are approved. This classification will be represented by the basic unit and compensated at Range 127, \$2,151 to \$2,535 per month (1996 rates).

Resolution 97-0969 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of deputy fire marshal which were approved by the civil service board on August 5, 1997, and which are filed with the city clerk as Public Document No. 97-1215-21, are approved; that said classification shall be subject to the city's collective bargaining agreement with its fire unit employees and that the pay range and rate shall remain unchanged, Pay Range 229, 1996 pay rate \$3,618.

Resolution 97-0976 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of fire inspector which were approved by the civil service board on August 5, 1997, and which are filed with the city clerk as Public Document No. 97-1215-22, are approved; that said classification shall be subject to the city's collective bargaining agreement with its fire unit

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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employees and that the pay range and rate shall remain unchanged, Pay Range 227, 1996 pay rate \$3,282.

Resolution 97-0977 was unanimously adopted.  
Approved December 15, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of fire marshal which were approved by the civil service board on April 4, 1997, and which are filed with the city clerk as Public Document No. 97-1215-23, are approved; that said classification shall be subject to the city's collective bargaining agreement with its fire unit employees and that the pay range and rate shall remain unchanged, Pay Range 232, 1996 pay rate \$4,188.

Resolution 97-0978 was unanimously adopted.  
Approved December 15, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of waste water compliance officer which were approved by the civil service board on September 2, 1997, and which are filed with the city clerk as Public Document No. 97-1215-24, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees and that the pay range and rates shall remain unchanged, Pay Range 30, pay rate, 1996 basic pay plan \$2,629 to \$3,142.

Resolution 97-0979 was unanimously adopted.  
Approved December 15, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Joseph Grant (West Duluth) for a term expiring March 1, 1999, replacing Grant Odegard who resigned.

NEIGHBORHOOD ADVISORY COUNCIL

Joseph Grant (West Duluth) for a term expiring March 1, 1999, replacing Grant Odegard who resigned.

Resolution 97-0986 was unanimously adopted.  
Approved December 15, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

CITYWIDE REVIEW TEAM for Neighborhood Matching Grants

Sumlee Beede (East Duluth) for a term expiring December 31, 1999, replacing Thomas Ziesler;  
Lorna E. Mangan (Central Duluth) for a term expiring December 31, 1999, replacing Robert

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Kosuth;

Lynne Scalzo (nonprofit) for a term expiring December 31, 1999, replacing John Elden.  
Resolution 97-1000 was unanimously adopted.  
Approved December 15, 1997  
GARY L. DOTY, Mayor

- - -

Resolution 97-1001, by Councilor Bohlmann, confirming appointment of Robert Reichert to Duluth housing trust fund board replacing Kristine Gentilini, was introduced for discussion.  
Councilor Bohlmann moved to table the resolution for an interview, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:  
ENVIRONMENTAL ADVISORY COUNCIL  
Glenn L. Evavold for a term expiring January 5, 2001, replacing Anne Fleischman.  
Resolution 97-1002 was unanimously adopted.  
Approved December 15, 1997  
GARY L. DOTY, Mayor

- - -

Resolution 97-1003, by Councilor Bohlmann, confirming appointment of Paul Huston to planning commission replacing James Yeager, was introduced for discussion.  
Councilor Bohlmann moved to table the resolution for an interview, which motion was seconded and unanimously carried.

- - -

At this time, 11:30 p.m., Councilor Bohlmann left her seat.

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into a HOME program grant agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 97-1215-25, with Life House, Inc., relating to the rehabilitation of its Harbor House development in an amount not to exceed \$117,000, payable from 1996 HOME Program Fund 260, Agency 020, Organization 2652, Object H003.  
Resolution 97-0875 was adopted upon the following vote:  
Yeas: Councilors Hogg, Keenan, Prettnr Solon, Rapaich, Talarico and President Hardesty -- 6  
Nays: Councilors Hales and Young -- 2  
Absent: Councilor Bohlmann -- 1  
Approved December 15, 1997  
GARY L. DOTY, Mayor

- - -

At this time, 11:35 p.m., Councilor Bohlmann returned to her seat.

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Resolution 97-0929, affirming a decision of the board of zoning appeals to deny reduced parking requirements in conjunction with an addition to the Lincoln Park School, and Resolution 97-0930, reversing a decision of the board of zoning appeals to deny reduced parking requirements in conjunction with an addition to the Lincoln Park School, by Councilor Prettnr Solon, were introduced for discussion.



Councilor Prettner Solon reviewed that the council's planning committee had held a committee meeting on this issue and heard from the school and neighbors affected by this issue, and that it is a unanimous recommendation from the committee to affirm the decision of the board of zoning appeals to deny the reduced parking requirements for the addition at Lincoln Park School. She continued by explaining that it would allow the variance, but it is approved on a contingency basis that sufficient parking spaces would be available, either on site or off site, but not on the street, on completion of the project before the certificate of occupancy be issued.

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

Dale Swapinski voiced his support of this project as it is important for the youth in the neighborhood. He added that approving the resolution in order to receive the grant money is important and he is sure the parking conditions will be met by the school.

Councilor Prettner Solon moved to amend the resolution to add the following to the last line: "with the clarification that the appellant shall not receive a certificate of occupancy until it has 56 off street parking spaces, but may construct the project while negotiating to secure said parking spaces," which motion was seconded and unanimously carried.

Resolution 97-0929, as amended, was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the Lincoln Park Youth Collaborative and Independent School District 709 applied to the board of zoning appeals for a variance to construct an addition on the Lincoln Park School located at 2427 West Fourth Street and to decrease the number of required parking spaces from 56 to the presently existing 18 spaces; and

WHEREAS, the board of zoning appeals granted the variance to construct the addition but denied the variance to diminish the number of parking spaces; and

WHEREAS, the Lincoln Park Youth Collaborative and Independent School District 709 have appealed the decision denying the parking space variance to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and determined that the facts of this case do not justify a reduction in parking spaces from 56 to 18.

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth affirms the board of zoning appeals' decision of October 28, 1997, with the clarification that the appellant shall not receive a certificate of occupancy until it has 56 off street parking spaces, but may construct the project while negotiating to secure said parking spaces.

Resolution 97-0929, as amended, was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

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Resolution 97-0930 was withdrawn.

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Resolution 97-0995, by Councilor Prettner Solon, authorizing a HOME program grant agreement with Women's Transitional Housing Coalition, Inc., the Salvation Army, Inc., and the Housing and Redevelopment of Duluth, Minnesota, in the amount of \$100,000, was introduced for discussion.

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

Salvation Army Major James Frye of the urged support of the resolution as it provides safe housing for the people in the Duluth area.

Mike Conlan, representing the Salvation Army, reviewed that the housing for this program is important because it is a family-strengthening program for mothers who have gone through treatment and are trying to get their children back and urged support for this resolution. He

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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reviewed that they looked for a house that was zoned appropriately, large enough for several mothers, and a house that was a problem in a neighborhood so that they could improve it for the neighborhood.

Bernie Martin, director of social services for the Salvation Army, stated that this is an exciting project for them because there has been large support for this project from various entities involved in the project and urged support for the resolution.

Resolution 97-0995 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into a HOME program grant agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 97-1215-26, with Women's Transitional Housing Coalition, Inc. (developer), the Salvation Army, Inc. (owner), and the housing and redevelopment authority of Duluth, Minnesota (disbursing agent), relating to the rehabilitation of the Catherine Booth project, in an amount not to exceed \$100,000 payable from 1997 HOME Program Fund 260, Agency 020, Org. 2662, Obj. H003.

Resolution 97-0995 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

BE IT RESOLVED, that the Duluth City Council hereby authorizes the proper city officials to purchase property described as Lots 7 through 14, Block 100, West Duluth Second Division, from Anna C. Erickson, at a cost of \$34,000, the purchase price to be paid from Sewer Fund 530, Public Service Department 500, Capital Improvements 0505, Object 5510.

Resolution 97-0999 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

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Resolution 97-1010, by Councilor Prettner Solon, approving lease with Spirit Ridge LLC for hotel and golf course development at Spirit Mountain, was introduced for discussion.

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

Nancy Nelson stated that it is premature for the council to approve this lease agreement as the developer stated he would not proceed with his plans until he receives approval from Midway Township for a nine hole golf course on private property. She encouraged the council to table the resolution.

Ed Kale questioned if this lease agreement ties the hands of the city council.

Assistant City Attorney Asleson replied that once the Spirit Mountain recreation area authority and the city council approve the lease agreement, it is binding on both parties. He continued by saying that there are many more steps that need to be completed, one of which is the work permits which the council must approve, and it will be at the discretion of the city council to approve those permits.

Charles Andresen, Spirit Mountain recreation area authority member, reviewed that this agreement has not been thrown together at the last minute and has been negotiated over the last year with some additions after the master plan was decided on by the council.

Dave Gaddie, Spirit Mountain recreation area authority chairperson, explained that the developer needs to move forward on financing and the lease needs to be in place for the financing to take place.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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David Ross, representing the Duluth Area Chamber of Commerce, supported the council in moving ahead with this lease as it is an investment into Spirit Mountain with private money.

Kent Oliver, developer, reviewed that he started this project two years ago, has received unanimous approval from the Spirit Mountain recreation area authority and is hoping for approval on the lease by the council. He continued by saying that this project will provide jobs, both during the construction phase and on a long term basis; there is no public subsidy involved, it is all private money, and the project will remain environmentally responsible during the whole construction process.

Ray Blessner, architect for the lodge, stated that there has been a lot of compromise during this project by both sides, and that in order for Spirit Mountain to be a year round recreation facility, the golf course is needed along with the lease agreement. He added that with this lease agreement in place, decisions can be made on where to put the project, finalize some costs and start negotiating the financing package.

Councilor Keenan stated that he cannot support this project because of the destruction of the wetlands and also feels that the lease is too favorable to the developer.

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At this time, 12:00 a.m., Councilor Hogg moved to extend the meeting until 12:30 a.m., which motion was seconded and unanimously carried.

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Councilor Hogg reminded the councilors that the master plan for Spirit Mountain was approved three weeks ago and that it is too soon for the lease agreement to be coming forward to the council.

Responding to Councilor Hogg, Mr. Asleson replied that should burial grounds be discovered in the initial phase of construction, federal law dictates what procedures need to be followed.

Resolution 97-1010 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that, pursuant to Laws of Minnesota, 1973, Chapter 327, Section 5, Subsection (f), the Duluth City Council does hereby approve of a lease of property described therein by the Spirit Mountain recreation area authority to Spirit Ridge, LLC, substantially in the form of that on file in the office of the city clerk as Public Document No. 97-1215-27 (a & b), for a hotel and golf course facility at the Spirit Mountain recreation area.

Resolution 97-1010 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Prettnner Solon, Rapaich, Talarico and Young -- 6

Nays: Councilors Hogg, Keenan and President Hardesty -- 3

Approved December 15, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, Wireless Alliance, L.L.C., has submitted to the city council a request for a special use permit for a communication tower on property described as follows: That part of Section 34, T49N, R15W, 4th Principal Meridian described as follows: Commencing at the south 1/4 corner of said Section 34; thence on an assumed bearing of north 00 degrees 00 minutes 00 seconds east parallel with the center line of Commonwealth Avenue a distance of 614.18 feet; thence north 90 degrees 00 minutes 00 seconds west a distance of 93.40 feet to the POINT OF BEGINNING; thence north 00 degrees 00 minutes 00 seconds east a distance of 75.00 feet; thence north 90 degrees 00 minutes 00 seconds west a distance of 75.00 feet; thence south 00 degrees 00 minutes 00 seconds east a distance of 75.00 feet; thence north 90 degrees 00 minutes 00 seconds east a

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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distance of 75.00 feet to the POINT OF BEGINNING; and located at 2300 Commonwealth Avenue; and

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

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Wireless Communications L.L.C. to allow for the construction and operation of a communications tower on the above described property generally located at 2300 Commonwealth Avenue on the condition that improvements be limited to, constructed and maintained in accordance with plans as identified as Public Document No. 97-1215-28 and the terms of Section 51-32 of the City Code.

Resolution 97-1012 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are authorized to enter into a joint powers agreement, a copy of which is on file in the office of the city clerk as Public Document No. 97-1215-29 with the city of Hermantown to establish a joint powers board hereinafter referred to as the Miller Creek watershed board.

Resolution 97-1013 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officials are authorized to execute a contract with the governing board of the Arrowhead Library System under which the Duluth Public Library will provide interlibrary loan and reference services to the libraries belonging to the seven county Arrowhead Library System and the North Country Library Cooperative during the period January 1, 1998, through December 31, 1998; payments thereunder in the estimated amount of \$106,000 to be deposited in the library General Fund 100-300-1702-4403 and in the estimated amount of \$20,000 for reference materials to be deposited in 100-300-1702-4400.

Resolution 97-0959 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are authorized to execute that certain agreement, filed as Public Document No. 97-1215-30, with Benedek Broadcasting Corporation and Melrose Pyrotechnics for the fireworks display at Zoo Year's Eve on December 31, 1997.

Resolution 97-0975 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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WHEREAS, the Minnesota Amateur Sports Commission (MASC), via the state general fund, provides funds to assist political subdivisions of the state of Minnesota for the development of youth sports and recreation programs; and

WHEREAS, the city of Duluth desires to implement an after school youth sports and activity program.

NOW, THEREFORE, BE IT RESOLVED, by the Duluth City Council that the city of Duluth, Minnesota:

(a) Estimates that the total cost of developing said program shall be \$34,600 and the city of Duluth is requesting \$17,300 from the state general fund;

(b) Authorizes and directs the city of Duluth youth coordinator and/or the director of parks and recreation of the city of Duluth to execute said application and serve as the official liaison with the Minnesota amateur sports commission.

Resolution 97-0980 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

WHEREAS, the proper city officers are hereby authorized and directed to execute an agreement, on file in the office of the city clerk as Public Document No. 97-1215-31, with the Holy Cross Lutheran Church of Duluth Heights for the nonexclusive use of the basement of the Holy Cross Lutheran Church of Duluth Heights, from January 1, 1998, through December 31, 1998, for the operation of the Duluth senior dining program at a cost of \$6,480, payable at \$540 per month. All funds expended by the city pursuant to this agreement shall be drawn upon Fund 272, Dept. 031, Org. 6308.

Resolution 97-0982 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

WHEREAS, the proper city officers are hereby authorized to execute an agreement, on file in the office of the city clerk as Public Document No. 97-1215-32, with the Woodland Gardens Association for the nonexclusive use of the recreation room of the Woodland Gardens Apartments from January 1, 1998, through December 31, 1998, for the operation of the Duluth senior dining program.

Resolution 97-0983 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute agreements with the Duluth airport authority, the Duluth Entertainment Convention Center and the Duluth housing and redevelopment authority relating to the participation in the city's health insurance program, which agreements are on file in the office of the city clerk as Public Document No. 97-1215-33.

Resolution 97-1014 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY PRESIDENT HARDESTY:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Fryberger, Buchanan, Smith & Frederick under which that firm will provide professional services related to the city's 1997 state legislative program, which agreement is on file in the office of the city clerk as Public Document No. 97-1215-34, at a cost to the city of not to exceed \$42,230, which shall be payable from the General Fund 100-015-1510-5312 and \$6,180 of which shall be reimbursed by the Duluth economic development authority.

Resolution 97-0958 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0963, by President Hardesty, authorizing execution of an agreement with the Duluth Convention and Visitors Bureau to provide advertising and promotion services to the city of Duluth for the year 1998, was introduced for discussion.

Councilor Keenan stated that he is abstaining from voting as he is a member of the bureau's board of directors.

Councilor Hogg stated he also needs to abstain from voting as he is involved with the bureau.

Resolution 97-0963 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Duluth Convention and Visitors Bureau, which agreement is on file in the office of the city clerk as Public Document No. 97-1215-35, and under which agreement the bureau will provide advertising and promotion services to the city during the year 1998 at a cost to the city of not to exceed \$794,900, payable from Fund 258.

Resolution 97-0963 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilors Hogg and Keenan -- 2

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HARDESTY:

WHEREAS, the St. Louis County social services department hereby is awarded a contract for furnishing approximately 51,000 hot meals for eligible senior citizens and guests at two St. Louis County facilities located in Duluth for a 12 month period for the senior dining division in accordance with specifications of its proposal of \$3.50 per meal for eligible senior citizens and \$4 per meal for guests or approximately \$178,500, payable out of Federal Program Fund 272, Dept./Agency 031, Organization 6308, Object 0071.

Resolution 97-0984 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

- - -

Resolution 97-0953, by councilors Young and Hogg, establishing a task force to study the issue of tax exempt organizations contributing towards essential public services, was introduced for discussion.

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

Glenn Anderson urged the councilors not to pass this resolution as it is a waste of time to study the fact that the council does not have the authority to change state law at the local level in the terms of taxing nonprofit organizations. He added that the drafting of this resolution opens the way for taxing all nonprofit groups, including churches and hospitals; and the makeup of the committee appears to be slanted toward the direction of those who would like to see the nonprofits taxed.

Councilor Hogg reviewed that this resolution addresses the concept of tax exempt organizations contributing toward essential public services by comprising a task force to study the issue. He continued by saying that police and fire services for the city represent 40 percent of the general fund budget, and if the city can find a way to get a substantial part of the community who pay no property taxes to contribute in some way to those costs, it would be beneficial to the city. Councilor Hogg also stated that 24 percent of all the property in the city is nontaxable, which is a significant portion of the tax base and the city needs to find ways to look at making tax exempt status properties contribute to the general fund.

Councilor Young stated that Mayor Doty thinks that this is a good idea, and would like to pursue it at the National League of Cities. He concurred with Councilor Hogg that the city has shrinking resources and the council needs to search out ways for new revenues and cut expenses. Councilor Young reminded councilors that this resolution is only to set up a task force to start a dialogue on the subject to find a way for everyone to pay their fair share.

President Hardesty stated she would not support this resolution since changes would need to be made at the state level in order to make this idea work and working at this idea at this level feels uncharitable to organizations in Duluth.

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

Resolution 97-0953 failed upon the following vote (Public Document No. 97-1215-36):

Yeas: Councilors Bohlmann, Hales, Hogg and Young -- 4

Nays: Councilors Keenan, Prettner Solon, Rapaich, Talarico and President Hardesty -- 5

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BY COUNCILOR YOUNG:

RESOLVED, that Consolidated Pipe & Supply Company be and hereby is awarded a contract for furnishing and delivering steel coated pipe of various sizes for the water and gas department in accordance with specifications on its low specification bid of \$5,857.50.07, terms two percent 10/net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 97-0974 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR YOUNG:

RESOLVED, that Hammarlund Landscaping be and hereby is awarded a contract for furnishing, delivering and installing 23 cubic yards of topsoil and 1,440 cubic yards of sod during construction of a gas service replacement to college of St. Scholastica for the water and gas department in accordance with specifications on its low specification bid of \$6,030, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 97-0997 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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BY COUNCILOR YOUNG:

WHEREAS, the city of Duluth desires to complete engineering services for water and gas mains; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to provide plans and specifications for construction of approximately 8,600 feet of ten inch water main and three inch gas main extensions from the Lake Superior college fire fighting school on Highway 23 to the Fond du Lac neighborhood; and

WHEREAS, Salo Engineering, Inc., has submitted a proposal for engineering services in connection with this project.

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$18,870, which \$16,983 will be payable from the Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533 and \$1,887 will be payable from the Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 97-1006 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the Duluth City Council hereby authorizes the execution of a change order in city contract No. 97-865-208 with Northland Constructors of Duluth, Inc., for the repair of a storm sewer and the construction of an oversized manhole in connection with Phase II of the Baywalk project, for a total consideration of \$13,833.56 to be split with DEDA paying \$4,300 and the city P.I. Fund 411, Agency 035, Organization 2118 paying \$9,533.56.

Resolution 97-0957 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that The Green House be and hereby is awarded a contract for furnishing and delivering approximately 485 flats of flowers for city gardens for the street/park maintenance division in accordance with specifications on its low specification bid of \$5,645.62, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5225.

Resolution 97-0970 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-0463 to Salo Engineering for furnishing professional engineering services for reconstruction of Seventh Street, 11th Street Alley and Fourth Street Alley be amended to increase the amount by \$11,875.09 for a new total of \$49,896.41, payable out of Special Assessment Fund 810, Dept./Agency 038, Organizations 5282 and 5283, Object 5530.

Resolution 97-0993 was unanimously adopted.

Approved December 15, 1997



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-0970 to Hardesty and Hanover, LLP, for furnishing professional consulting services for a comprehensive inspection and analysis of the condition of the Aerial Lift Bridge be amended to decrease the amount by \$15,000 for a new total of \$83,000, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2102, Object 5303.

Resolution 97-1004 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-1069 to Hardesty and Hanover, LLP, for furnishing professional engineering services for a design replacement trunnion shaft and bushing for the Aerial Lift Bridge counterweight sheave assemblies be amended to increase the amount by \$15,000 for a new total of \$45,000, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2102, Object 5303.

Resolution 97-1005 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

BE IT RESOLVED, that in accordance with the provisions of Section 33-94 of the City Code, 1959, as amended, the following angle parking is hereby established:

North side of Greysolon Road from 17th Avenue East to 18th Avenue East;

East side of 17th Avenue East from Third Street to Fourth Street.

Resolution 97-0955 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the Minnesota department of public safety to reimburse expenditures related to the criminal gang strike force member replacement grant. The St. Louis County sheriff's department is a partner agency in this grant and is authorized reimbursements related to this grant.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police department. All grant proceeds are to be deposited in police special revenue Fund 215, police department Agency 200, Revenue 4230.

Resolution 97-0987 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the U.S. department of justice, office of community oriented policing services, to reimburse the police department's expenditures related to the problem-solving partnership grant. The Greater Downtown Council and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Duluth transit authority are designated partners in this grant and are eligible for reimbursement of approved expenses related to this grant.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police department. All grant proceeds are to be deposited in police special revenue Fund 215, police department Agency 200, Revenue 4210.

Resolution 97-0988 was unanimously adopted.  
Approved December 1, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the Minnesota department of public safety to reimburse expenditures related to the grant to expand local capacity to combat gangs. The St. Louis County sheriff's department is a partner agency in this grant and is authorized reimbursements related to this grant.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police department. All grant proceeds are to be deposited in police special revenue Fund 215, police department Agency 200, Revenue 4230.

Resolution 97-0989 was unanimously adopted.  
Approved December 15, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the Minnesota department of public safety to reimburse police department expenditures related to the Central Hillside weed and seed grant.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police department. All grant proceeds are to be deposited in police special revenue Fund 215, police department Agency 200, Revenue 4230.

Resolution 97-0990 was unanimously adopted.  
Approved December 15, 1997  
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the U.S. department of justice, bureau of justice assistance, to reimburse the police department's expenditures related to the local law enforcement block grant program.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police department. All grant proceeds are to be deposited in police special revenue Fund 215, police department Agency 200, Revenue 4210.

Resolution 97-0991 was unanimously adopted.  
Approved December 15, 1997  
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the Minnesota department of public safety to reimburse police department expenditures related to the East Hillside weed and seed grant.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police department. All grant proceeds are to be deposited in police special revenue Fund 215, police department Agency 200, Revenue 4230.

Resolution 97-0992 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Tactical Technologies, Inc., be and hereby is awarded a contract for furnishing and delivering a turnkey system for auto theft tracking for the police department in accordance with specifications on its low specification bid of \$12,515.50, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 2440, Object 5580.

Resolution 97-0996 was unanimously adopted.

Approved December 15, 1997

GARY L. DOTY, Mayor

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### **INTRODUCTION AND CONSIDERATION OF ORDINANCES ORDINANCE TABLED**

BY COUNCILOR HALES

97-036 (9354) - AN ORDINANCE ESTABLISHING A USER CHARGE FOR THE EXCESSIVE CONSUMPTION OF POLICE SERVICES, ADDING A NEW ARTICLE III TO CHAPTER 40 OF THE CITY CODE.

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

Councilor Hales reviewed that this ordinance is based on a St. Paul ordinance that charges a fee to calls that are nuisance calls.

Councilor Hales moved to amend the ordinance to add a new Section 40-15 to read as follows:

“Sec. 40-15. Applicability of Article.

This Article shall not be deemed to authorize the imposition of a police services fee against a landlord for a police response initiated by a call from a tenant for police or emergency assistance in response to domestic abuse or any other conduct,” which motion was seconded for discussion.

Councilor Hales explained that this amendment is needed as state law prevents cities from charging a police service fee to a landlord when a tenant calls for police assistance because of domestic abuse or any other conduct.

Councilor Hales also introduced a second amendment that would define a nuisance event in Section 40-10, second paragraph, by deleting everything after the words “but is not limited to, the following,” and adding:

“(a) Unlawful sale, possession, storage, delivering, giving, manufacture, cultivation or use of controlled substance;

(b) Prostitution or prostitution-related activity;

- (c) Illegal gambling or gambling-related activity;
- (d) Unlicensed sales of alcoholic beverages or unlawful sales or gifts of alcoholic beverages by an unlicensed person or underage consumption at a specific location;
- (e) Loud and boisterous conduct, noises and activities that disturb the peace;
- (f) Events between 11:00 p.m. and sunrise which disturb the peace and tranquility of the neighborhood;
- (g) Congregating in a tumultuous, noisy or rowdy crowd;
- (h) Fighting or use of obscene or inflammatory language;
- (i) Loud music constituting a nuisance or disturbing the peace;
- (j) Activities causing excessive pedestrian or vehicular traffic and parking problems and congestion;
- (k) Indecent exposure or lewd conduct," which motion was seconded.

Councilor Hales' amendments were unanimously carried.

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

Yeas: Councilor Bohlmann, Hales, Hogg, Keenan, Young and President Hardesty -- 6

Nays: Councilors Prettner Solon, Rapaich and Talarico -- 3

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR PRETTNER SOLON

97-041 (9358) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO CENTER CITY HOUSING AND SAMMY'S PIZZA/TERRY PERELLA, FOR A FIXED AWNING IN THAT PART OF WEST FIRST STREET AND FIRST AVENUE WEST.

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

- - -

The meeting was adjourned at 12:30 a.m.

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

- - -

**ORDINANCE NO. 9354**

BY COUNCILOR HALES:

AN ORDINANCE ESTABLISHING A USER CHARGE FOR THE EXCESSIVE CONSUMPTION OF POLICE SERVICES, ADDING A NEW ARTICLE III TO CHAPTER 40 OF THE CITY CODE.

The city of Duluth does ordain:

Section 1. That a new Article III is hereby added to Chapter 40 of the Duluth City Code, 1959, to read as follows:

Article III. User Charge for Excessive Consumption of Police Services.

Sec. 40-9. Purpose.

It is the intent of the city council by the adoption of this Chapter 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.

Sec. 40-10. Definitions.

For the purpose of this Chapter, the terms defined in this Section shall have the meanings ascribed to them:

Nuisance event. An event requiring special security assignment in order to protect the public peace, health, safety and welfare. A nuisance event includes, but is not limited to, the following:

- (a) Unlawful sale, possession, storage, delivering, giving, manufacture, cultivation or use of controlled substance;
- (b) Prostitution or prostitution-related activity;
- (c) Illegal gambling or gambling-related activity;
- (d) Unlicensed sales of alcoholic beverages or unlawful sales or gifts of alcoholic beverages by an unlicensed person or underage consumption at a specific location;
- (e) Loud and boisterous conduct, noises and activities that disturb the peace;
- (f) Events between 11:00 p.m. and sunrise which disturb the peace and tranquility of the neighborhood;
- (g) Congregating in a tumultuous, noisy or rowdy crowd;
- (h) Fighting or use of obscene or inflammatory language;
- (i) Loud music constituting a nuisance or disturbing the peace;
- (j) Activities causing excessive pedestrian or vehicular traffic and parking problems and congestion;
- (k) Indecent exposure or lewd conduct.

Owner. A person or persons shown to be owner or owners of property on the property tax records of St. Louis County, Minnesota.

Personal service. Service by personally handing a copy to the intended recipient or by leaving a copy at the intended recipient's residence or place of business with a person of suitable age and discretion.

Police services fee. A fee imposed for law enforcement services associated with a special security assignment. Such fee may be either a flat fee of \$250 or an additional amount of up to a total of \$1,000 based on, but not limited to, salaries of police officers while responding to or remaining at the nuisance event, the pro rata cost of equipment, the cost of repairing city equipment and property and the cost of any medical treatment of injured police officers.

Responsible person. A person who owns the property where the nuisance event takes place, and/or a person in charge of the premises, and/or a person who organized or served as a host of the nuisance event. If the responsible person is a minor, then the parents or guardians of that minor will also be considered responsible persons.

Special security assignment. The assignment of police officers, services and/or equipment during a second or subsequent response to a nuisance event at a particular location after the service of a written notice to the responsible persons that a police services fee may be imposed for costs incurred by the city for any subsequent police response at such location.

Sec. 40-11. Initial police response to nuisance event.

When any police officer responds to any nuisance event and determines that there is a threat to the public peace, health, safety or general welfare, the police officer may serve a written notice by mail or personal services to the responsible person or persons that any subsequent police response to that same location or

address within a 30 day period shall be deemed a special security assignment and that the responsible person or persons may be liable for a police services fee.

Sec. 40-12. Subsequent police responses; liability.

If, after a written notice is served pursuant to this Article, a subsequent police response or responses are necessary to the same location or address within a 30 day period, then each such subsequent response or responses shall be deemed a special security assignment. Responsible persons who had previously received a notice of warning shall be jointly and severally liable for a police services fee for a special security assignment. The city reserves its rights to seek reimbursement for actual costs and damages exceeding \$1,000 through other legal remedies or procedures.

Sec. 40-13. Cost; collection.

The chief of police shall notify the city finance director in writing of the performance of each special security assignment, of the name and address of the responsible person or persons, the date and time of the incident, the services performed and the amount of the police services fee. If the police services fee is in excess of \$250, the chief of police shall provide documentation to support the additional amount. The finance director shall thereafter cause appropriate billings to be made and be responsible for the collection of the police services fee.

Sec. 40-14. Administrative appeal.

An administrative appeal of a police services fee may be made to the chief of police or his/her designee within ten days from the date of mailing of the billing. The request for a hearing shall be in writing and addressed to the chief of police and shall include a copy of the billing and grounds for the appeal. The chief of police or his/her designee may excuse or modify the service fee upon a finding that the responsible person or persons had made a good faith effort to remedy the situation or that the nuisance event was not the fault of the person or persons filing the appeal.

Sec. 40-15. Applicability of Article.

This Article shall not be deemed to authorize the imposition of a police services fee against a landlord for a police response initiated by a call from a tenant for police or emergency assistance in response to domestic abuse or any other conduct.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: February 1, 1998)

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

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Young and President Hardesty -- 6

Nays: Councilors Prettner Solon, Rapaich and Talarico -- 3

Passed December 15, 1997

Approved December 15, 1997

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 9355**

BY COUNCILOR HOGG:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE YEAR 1998.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 1998 is hereby determined to be the sum of \$8,281,291 which is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city set forth in the following sections, via:

Section 2. There will be levied for the support of the general fund the sum of 2,108,091.

Section 3. For the payment of debt, there will be levied for the general obligation debt service fund the sum of 3,780,200.

Section 4. For the payment of interest and principal on the transit bonds, there will be levied for the transit bond fund the sum of 37,200.

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 390,000.

Section 6. That pursuant to Minnesota Statutes, Section 469.053, Subd. 4, there will be levied for the purpose of providing funds for the Seaway Port authority fund of the city of Duluth, the sum of 269,800.

Section 7. That pursuant to Minnesota Statutes, Section 458A.51, Subd. 1, there will be levied for transit operations the sum of 1,696,000.

Section 8. That this ordinance shall take effect immediately upon passage and approval. (Effective date: December 15, 1997)

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

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan and Young -- 5

Nays: Councilors Prettner Solon, Rapaich, Talarico and President Hardesty -- 4

Passed December 15, 1997

Approved December 15, 1997

ATTEST:

JEFFREY J. COX, City Clerk

GARY L. DOTY, Mayor

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**ORDINANCE NO. 9356**

BY COUNCILOR HOGG:

AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 1998 APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

The city of Duluth does ordain:

Section 1. That in accordance with Section 58 of the 1912 Home Rule Charter of the city of Duluth and all amendments thereof and laws supplementary thereto and for the fiscal year beginning January 1 and ending December 31, 1998, the city council hereby budgets, determines and states the amount of money required to meet the principal and interest of maturing obligations comprising the outstanding indebtedness of such city; the amounts of money necessary to be provided for each such fund and each department of such city; and estimates the amount of income from all other sources and revenues, exclusive of taxes upon property, together with the probable amount required to be levied and raised by taxation to defray all expenses and obligations of such city during such fiscal year.

That the monies as so budgeted and hereinafter set forth shall be paid upon the presentation of properly verified vouchers bearing thereon the budget distribution for which such expenditures are to be charged in accordance with the detailed classification of accounts and the explanatory

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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information of such as set forth in ordinance in effect governing same, excepting, however, payments for interest and sinking funds, which shall be paid in the manner set forth in Section 53 of the City Charter.

That any monies received by the several city departments as reimbursement for damages or repairs to city property or work done for others and not anticipated in the original budget may be credited to and added to the appropriate budget item upon approval by the director of administrative services.

That grants which have been approved by the appropriate state or federal agency and accepted by resolution of the city council may be added to the respective budget item upon approval of the finance director.

Section 2. That the finance director be authorized to approve the payments of \$2,065,000 from the public utility fund to the general fund for administrative services; comprised of \$2,000,000 or seven percent of the gross revenues of the gas utilities, from the public utility fund, gas division, to the general fund; and \$65,000 from public utility fund, steam division, to the general fund.

Section 3. That the mayor, the administrative assistant or the director of administrative services may make transfers from budget item to budget item as may be considered necessary for the proper administration of the city government for the year 1998. However, the total of any transfers to or from any budget item in excess of ten percent of the appropriation therefore as herein made shall be made only upon approval of the city council. For the purpose of this section, the term budget item shall mean the amount appropriated to the various funds delineated as fixed charges in the budget summary, the accounts numbered 010 through the 700 series shall each be considered budget items within the general fund, as defined in Chapter 8, Section 54, of the City Charter, and the accounts numbered 510 in the water division, 520 in the gas division, 530 in the sewer division, and 540 in the steam division, and 503 in the golf division and 504 in the zoo division.

Section 4. That the salaries shall be in accordance with the pay plan in effect as provided by Section 22 of the City Charter, as amended.

Section 5. That the city auditor may create or abolish an accounting fund when required by law or proper accounting procedures.

Section 6. That the finance director, or his designee, be authorized to make temporary loans to and from the city's various funds as needed in the conduction of the day-to-day operations of the city.

Section 7. That the appropriations as set forth in this section constitutes the budget of the city of Duluth for the calendar year of 1998.

010 - LEGISLATIVE AND EXECUTIVE

1101	City council - total	\$ 130,500
1102	Mayor's office - total	152,900
1103	Administrative assistant - total	163,700
1104	Attorney's office - total	1,043,400
	Total legislative and executive	<u>\$ 1,490,500</u>

015 - ADMINISTRATIVE SERVICES

1510	Human resources - total	\$ 1,120,800
1511	Budget - total	159,100
1512	City clerk - total	590,800
1513	Data/word processing - total	1,092,600



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1514	Other functions	855,900
	Total administrative services	<u>\$ 3,819,200</u>

020 - PLANNING AND DEVELOPMENT DEPARTMENT

1200	Planning - total	\$ 405,500
1201	Building inspection - total	1,083,300
1202	Business development - total	474,100
	Total planning department	<u>\$ 1,962,900</u>

030 - FINANCE

1321	Director's office - total	\$ 138,100
1322	City assessor's office - total	620,500
1324	City auditor's office - total	1,165,500
1325	Purchasing office - total	255,200
1327	City treasurer's office - total	356,700
	Total finance and records	<u>\$ 2,536,000</u>

100 - FIRE DEPARTMENT

1501	Fire administration - total	\$ 325,900
1502	Firefighting operations - total	9,958,300
1503	Fire prevention and training - total	516,100
	Total fire department	<u>\$ 10,800,300</u>

200 - POLICE DEPARTMENT

1610	Administration - total	\$ 1,708,800
1620	Operations - total	6,850,600
1630	Support services - total	2,645,000
	Total police department	<u>\$ 11,204,400</u>

300 - LIBRARY

1701	Director's office - total	\$ 520,000
1702	Library services - total	2,664,500
1703	Buildings and equipment - total	242,000
	Total library	<u>\$ 3,426,500</u>

400 - PARKS AND RECREATION

1810	Director's office - total	\$ 318,200
1812	Recreation and senior services - total	941,000
	Total parks and recreation	<u>\$ 1,259,200</u>

500 - PUBLIC WORKS

1910	Director's office - total	\$ 297,100
1920	Maintenance - total	5,780,300
1925	Bridges - total	595,200
1930	Engineering services - total	1,650,900
1950	Property management - total	664,100
		<u>3,133,800</u>

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Total public works		<u>\$ 12,121,400</u>
	<u>700 - TRANSFERS</u>	
Total transfers		\$ 6,888,776
	<u>PUBLIC ENTERPRISE</u>	
503	Golf fund - total	\$ 1,706,100
504	Zoo fund - total	1,631,500
	<u>PUBLIC UTILITIES</u>	
510	Water fund - total	\$ 9,705,800
520	Gas fund - total	30,081,900
530	Sewer fund - total	14,936,416
540	Steam fund - total	3,503,900

Section 8. That the administrative services director shall provide the council with monthly budget reports and a final budget report within three months of the end of the budget year setting forth the original approved and the modified budgets for each line item included in this ordinance and explaining in narrative form the reasons for any significant differences between the original approved and the modified budgets.

Section 9. That the city will review all state and federal grants prior to acceptance to determine the program's funding status. A statement should be included on each grant resolution outlining items such as whether the grant represents a one time revenue, an ongoing funding source, or a partial funding source with a local match required. The future fiscal impact of the program on the budget will be discussed prior to acceptance of the grant.

That programs funded by state and federal grants shall be reduced or eliminated accordingly if state or federal revenues are reduced or eliminated and another funding source is not secured. Local funding will be available only after a full review to determine whether the program should be continued.

Section 10. That this ordinance shall take effect January 1, 1998.

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

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan and Young -- 5

Nays: Councilors Prettner Solon, Rapaich, Talarico and President Hardesty -- 4

Passed December 15, 1997

Approved December 15, 1997

ATTEST:

JEFFREY J. COX, City Clerk

GARY L. DOTY, Mayor

- - -

**ORDINANCE NO. 9357**

BY COUNCILOR HOGG AND PRESIDENT HARDESTY:

AN ORDINANCE RELATING TO THE REGULATION OF RECREATIONAL TRAILS, AMENDING SECTION 35-6 OF THE CITY CODE.

The city of Duluth does ordain:

Section 1. That Section 35-6 of the Duluth City Code, 1959, is hereby amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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Sec. 35-6. Vehicles, parking and recreational trails and paths.

(a) For the purpose of this Section, words used herein shall have the meanings respectively ascribed to them in sections 33-1 and 33-224 of this Code;

(b) No person shall operate any motor vehicle or bicycle, or ride a horse in any area of any park except on the roadways or parking areas in such park. Notwithstanding the above, the director of parks and recreation may establish special trails or paths for use by snowmobiles, motorcycles, bicycles, hikers, horseback riders, all-terrain vehicles, cross-country skiers and snowshoers; provided that the director of parks and recreation shall not establish any new or expand any existing special trail or path for use by snowmobiles, motorcycles or all-terrain vehicles after [effective date of ordinance] without approval of the city council. The director may, by regulation, regulate traffic on these trails including, but not limited to, designating direction of traffic flow and speed limits on the trail and prohibiting certain vehicles or modes of travel on the trail. These trails or paths shall be clearly marked with signs which specify what type of vehicle is permitted and set forth other traffic restrictions. No person shall operate any nonpermitted vehicle on any specially designated path or trail or violate any of the traffic regulations;

(c) When any motor vehicle is found parked and unattended off of the roadways or parking areas in any park, the director of parks and recreation or his designee or any police officer may remove such vehicle by having it towed away;

(d) When any park is closed to the public pursuant to the provisions of this Chapter or by order of the director of parks and recreation, no person shall park a motor vehicle or allow a motor vehicle to remain parked in such park after such closing hour except in an after-hours parking area established by the director of parks and recreation. The director of parks and recreation or any police officer may tow any vehicle found parked and unattended in such park in any area other than an after-hours parking area. No person other than a fisherman, boater or person with a special permit to use the park after-hours shall park in any after-hours parking area after the park is closed. For the purposes of this Section, the record owner of a motor vehicle shall be prima facie responsible for parking violations.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: February 1, 1998)

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

Yeas: Councilors Bohlmann, Hogg, Keenan, Talarico and President Hardesty -- 5

Nays: Councilors Hales, Prettner Solon, Rapaich and Young -- 4

Passed December 15, 1997

Approved December 15, 1997

ATTEST:

JEFFREY J. COX, City Clerk

GARY L. DOTY, Mayor

- - -

**ORDINANCE NO. 9358**

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO CENTER CITY HOUSING AND SAMMY'S PIZZA/TERRY PERELLA, FOR A FIXED AWNING IN THAT PART OF WEST FIRST STREET AND FIRST AVENUE WEST.

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1997

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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 Center City Housing Corporation and Sammy's Pizza/Terry Perella, their successors and interests, referred to herein as the permittees, to occupy, erect and maintain a fixed awning in those parts of the West First Street and First Avenue West rights-of-way shown on city council Public Document No. 97-1215-37, and as further described as follows: Northerly three feet of the easterly 42 feet of West First Street adjacent to Lots 17 & 19 and westerly three feet of the southerly 14 feet of First Avenue West adjacent to the south 100 feet of Lot 17, West First Street, Duluth Proper First Division as the same was dedicated to the use of the public and the plat of Duluth Proper First Division, on file and of record in the office of the register of deeds in and for the St. Louis County, Minnesota.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

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

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said fixed awning and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees and agree that such fixed awning shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said West First Street and First Avenue West and agree that the city of Duluth shall not be liable for damage caused to such fixed awning while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such fixed awning in said West First Street and First Avenue West.

Section 6. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: February 1, 1998)

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

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

Nays: None -- 0

Passed December 15, 1997

ATTEST:  
JEFFREY J. COX, City Clerk

Approved December 15, 1997  
GARY L. DOTY, Mayor

- - -

**ORDINANCE NO. 9359**

BY PRESIDENT HARDESTY:

AN ORDINANCE AMENDING SECTION 2-139 OF THE DULUTH CITY CODE PERTAINING TO REPORTING REQUIREMENTS OF FINANCIAL ASSISTANCE RECIPIENTS OF THE CITY.

The city of Duluth does ordain:

Section 1. That Section 2-139 of the Duluth City Code, as amended, is hereby amended to read as follows:

Sec. 2-139. Administration.

(a) The city shall report to the city council on or before February 10 of each year whether the employers covered under this Article are complying with the provision of this Article. The city shall investigate any employee claims of violation of this Article;

(b) All employers are required to provide to the city on an annual basis by no later than January 10 of each year the following information for all employees covered by this Article:

(1) The number of full-time employees and part-time employees employed by the employer in the city of Duluth at the time the first receipt by the employer of the subject financial assistance described in paragraph (c) of Section 2-136 above;

(2) The number of full-time employees and part-time employees then employed by the employer in the city of Duluth over and above the number described in sub-subparagraph (1) above;

(3) The number of the full-time employees and part-time employees described in sub-subparagraph (b) above being paid wages at an hourly rate equal to or in excess of \$7.25 without health benefits or \$6.50 with health benefits;

(4) The average hourly wage paid to the employees of employer described in sub-subparagraph 2 above.

The employer shall keep all records containing the information specified in subsection (b) of this Section for at least two years, and such records shall be fully verifiable and subject to audit by the city upon reasonable notice to the employer.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: February 1, 1998)

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

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

Nays: Councilor Bohlmann -- 1

Passed December 15, 1997  
Approved December 15, 1997  
GARY L. DOTY, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

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