



CITY
OF
DULUTH

**proceedings of the
CITY COUNCIL
1999**

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, January 4, 1999, 6:00 p.m. at the Duluth Entertainment Convention Center, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0104-01 Murphy Oil, et al. (two signatures), submitting petition to reclassify from commercial to C-2 1401 Trinity Avenue ex easement for roadway and slopes and all of Lot 19. -- Assessor

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REPORTS OF OFFICERS

99-0104-02 Assessor submitting:

(a) Affidavit of mailing of notice of public hearing by the special assessment board on January 11, 1999, at 4:30 p.m., regarding the proposed construction of a sanitary sewer in Grand Avenue Place from Gogebic Street to 330 feet southwesterly. -- Clerk

(b) Letter of sufficiency pertaining to the petition to reclassify from R-B to C-1 Farrell & Culver's Addition, Lots 18 and 19, Block 8. -- Received

99-0104-03 Clerk submitting application to Minnesota gambling control board for exemption from lawful gambling license (raffles) from the Regents of the University of Minnesota on February 27, 1999. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-0104-05 Duluth transit authority minutes of November 18, 1998, meeting. -- Received

99-0104-06 Parks and recreation commission minutes of: (a) January 21; (b) April 15; (c) June 10; (d) July 8; (e) August 19; (f) September 9; (g) September 30; (h) October 14; (i) November 10, 1998, meetings. -- Received

99-0104-07 Sanitary sewer board of WLSSD minutes of December 7, 1998, meeting. -- Received

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REPORTS OF COUNCILORS

President Hogg announced that the election of officers for 1999 would now take place. Councilor Keenan was elected president upon a unanimous vote. Councilor Rapaich was elected vice president upon a unanimous vote.

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Councilor Hogg spoke of the accomplishments of the council during the past year. He introduced President Keenan.

President Keenan thanked councilors for their support.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Tom Allnew stated that he would like to see the city proclaim January 15 as "Jessie Ventura Day," as Governor Ventura stated that government funding in this area needs to be reduced since it has ruined businesses due to subsidies.

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MOTIONS AND RESOLUTIONS

Due to time constraints, the resolutions were forwarded to the January 11 council meeting.

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Mayor Doty presented the 1999 State of the City Address (Public Document No. 99-0104-04.)

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Mayor Doty introduced the 1998 employees of the month and announced the selection of Dan Chapinski 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

Duluth City Council meeting held on Monday, January 11, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the council meeting held on September 28, 1998, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0111-01 A&L Development, Inc., submitting acceptance of terms, conditions, and provisions of concurrent use permit granted by Ordinance No. 9390 on October 26, 1998. -- Received

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REPORTS OF OFFICERS

99-0111-02 Assessor submitting letter of sufficiency pertaining to the petition to reclassify from Commercial 1 to Commercial 2, 1401 Trinity Road, plat name Lincoln Park Terrace, Lot 18, ex easement for roadway and slopes and all of Lot 19, Block 2. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-0111-03 Housing and redevelopment authority of Duluth minutes of November 24, 1998, meeting. -- Received

99-0111-04 Sanitary sewer board of WLSSD minutes of December 21, 1998, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Tom Allnew stated that he would like to see a proclamation from the city declaring January 15 "Jessie Ventura Day." He continued by saying that Governor Ventura believes that government funding needs to be cut off to this area as it has ruined the businesses because of government subsidies which have destroyed the incentive for people to work.

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MOTIONS AND RESOLUTIONS

The following entitled resolution was read for the first time:
BY COUNCILOR HOGG

99-0054R - RESOLUTION AMENDING RULE 7 OF THE STANDING RULES OF THE CITY COUNCIL CHANGING THE ORDER OF BUSINESS AT THE ANNUAL REORGANIZATION MEETING.

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

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CONSENT AGENDA

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

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

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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. Certificates of Indebtedness, Purpose and Authorization.

1.01 Pursuant to the authority contained in Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 475, the City is authorized to issue its certificates of indebtedness in anticipation of collection of taxes and state aids.

1.02 Pursuant to the authority herein recited, the City Council authorizes and directs the issuance, sale and delivery of certificates of indebtedness in anticipation of collection of taxes and state aids for the general fund of the City in the amount of \$9,000,000 to be dated February 15, 1999 (the "Certificates").

Section 2. Issuance and Sale of the Certificates. The terms and conditions of the Certificates and the sale thereof are set forth in the Official Terms of Offering, which is attached hereto as Exhibit A. Each and all of the terms and provisions set forth in the Official Terms of Offering are adopted and confirmed as the terms and conditions of the Certificates and the sale thereof, and the City Council shall meet at the time and place fixed therein to consider proposals for the purchase of the Certificates.

Section 3. Negotiated Sale. Evensen Dodge, Inc., independent financial advisor to the City, is hereby authorized to solicit proposals for the sale of the Certificates as provided by Minnesota Statutes, Section 475.60, subdivision 2(9) pursuant to the terms of the Official Terms of Offering.

Section 4. Subsequent Resolution. The form, specifications and provisions for repayment of the Certificates shall be set forth in agreements and subsequent resolutions of this City Council.

Resolution 99-0026 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to execute a supplemental agreement with MAR Computer Services for the continued provision of professional training and emergency software services as needed for the data processing division, at a rate of \$50 per hour at a total annual cost of approximately \$25,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5319.

Resolution 99-0029 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Wagner Construction, Inc., be and hereby is awarded a contract for furnishing and leveling approximately 37,100 cubic yards of root zone layer materials for the administrative services department in accordance with specifications on its low specification bid of \$55,650, terms net 30, FOB job site, payable out of Self Insurance Fund 605, Dept./Agency 036, Organization 1651, Object 5319.

Resolution 99-0042 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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 in accordance with specifications and referencing state of Minnesota Contract #400120 pricing for the various city departments, terms net 30, FOB destination, payable out of various funds, dept./agencies, organizations, objects; not to exceed the 1999 budget allocation for computer equipment as approved by the budget ordinance for capital equipment.

Resolution 99-0044 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that the Duluth News-Tribune be and hereby is designated the official newspaper of the city of Duluth for the year 1999, 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 \$.2364 per line, these being the legal rates for the state of Minnesota, estimated total annual cost-\$25,000.

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

Resolution 99-0047 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of police sergeant, which were approved by the civil service board on October 6, 1998, and which are filed with the city clerk as Public Document No. 99-0111-06, are approved. This classification remains represented by the police unit and compensated at range 328, \$3,419 to \$3,846 per month.

Resolution 99-0001 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

DEFERRED COMPENSATION PLAN COMMISSION

John Hall (supervisory group) and James Kroll (basic group) for terms expiring December 31, 2002.

Resolution 99-0004 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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

JOINT AIRPORT ZONING BOARD

James Laumeyer for a term expiring January 2, 2002, replacing Donald Melander who resigned.

James Mohn for a term expiring January 2, 2002.

Resolution 99-0006 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

TREE COMMISSION

Rocky Anderson for a term expiring August 31, 1999, replacing James Hakala who resigned.

Resolution 99-0017 was unanimously adopted.

Approved January 11, 1999

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:

File #	Applicant Name	Legal Description	Location
98171	Duane Caywood	westerly 14½' of Lot 423 and easterly 14' Lot 425, Block 79, Duluth Proper Second Division (10-1140-2360)	north side of First Street between 26th and 27th Avenues West Lincoln Park
98173	Dale Kusnierek	Lot 1, Block 16, Gray's Addition to Duluth (10-1980-2340)	southeast corner of Kennebec Avenue and Cornwall Street (Kenwood)
98174	Lawrence Smith	Lot 11, Block 8, Bryant Addition, Second Division (340-1140 partial)	north side of Devonshire Street between Atlantic and Pacific Avenues (Lincoln Park)
98177	Florence Ek	Lot 201, Block 66, Duluth Proper Third Division including Lot 201, Block 136, Duluth Proper Second Division (101-1310-480)	upper side of Fifth Street between 12th and 13th Avenues West (Central Hillside)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

98179 St. Louis County Lots 28-32, Block 13, southwest corner of 27th
Land Department Merchants Park Division Avenue West and 11th
(10-3220-3250-3290) Street (Lincoln Park)

Resolution 99-0010 was unanimously adopted.
Approved January 11, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the city of Duluth hereby accepts a grant in the amount of \$5,000 from the St. Louis County Board of Commissioners for the Grant Recreation Center project, to be deposited into Fund 210, Agency 030, Org. 2155, Account Revenue Source 4253.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 99-0111-07 with St. Louis County related to the Grant Recreation Center project.

Resolution 99-0024 was unanimously adopted.
Approved January 11, 1999
GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with LHB Engineers & Architects, for the sum of not to exceed \$12,969, from Capital Fund 450, Agency 015, Org. 1998, Obj. C810; for providing certain engineering services to the city of Duluth in connection with the rehabilitation of historic bridge #1 located on Seven Bridges Road, 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. 99-0111-08.

Resolution 99-0002 was unanimously adopted.
Approved January 11, 1999
GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that pursuant to the provisions of Section 35-11(c) of the Duluth City Code, 1959, as amended, the following rates are hereby set for admission at the Lake Superior Zoological Gardens located in Fairmont Park:

	<u>12 years or older</u>	<u>4 - 11 years old</u>	<u>0 - 3 years old</u>
Rates:	regular - \$4.65	\$1.86	free
	group - \$4.19	\$1.40	free

(a) Group rates are available only to groups of ten or more people who have made prior arrangements for a group zoo tour and where one payment is made for the entire block of tickets;

(b) Groups of school children on school sponsored zoo tours shall be admitted at a rate of \$.93 per person;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

(c) Admission to the zoo on the first Tuesday of each month will be free from opening time until 11:00 a.m.;

(d) Groups of persons with bona fide special needs or disabilities may apply to the director of the zoo for a special rate of \$.93 per person;

(e) Special rates for promotional, marketing and public relations purposes and for special events held at the zoo may be granted by the director of the zoo, but only after approval by the zoo operations team.

Resolution 99-0011 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that M.T.I. Distributing Company be and hereby is awarded a contract for furnishing and delivering O.E.M. irrigation machine parts and repairs for Toro golf course equipment for the Lester and Enger golf courses in accordance with specifications on its low specification bid of \$7,000, terms net 30, FOB shipping point, payable out of Golf Fund 503, Dept./Agency 400, Organization 0500, Object 5229.

Resolution 99-0030 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and the Arrowhead Regional Development Commission for the furnishing of meals for eligible senior citizens during the period from January 1, 1999, through December 31, 1999, said agreement filed as Public Document No. 99-0111-09.

RESOLVED FURTHER, that monies collected under said contract shall be deposited in Federal Program Fund 272, Dept./Agency 031, Organization 6309.

Resolution 99-0032 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

WHEREAS, that the proper city officers are authorized and directed to execute that certain agreement filed as Public Document No. 99-0111-10 granting to Ryan Blazevic, in consideration for undertaking the obligation of performing the services set forth in the agreement, the right to occupy the living quarters at the Irving Community Center apartment for a gross rental of \$360 per month which will be reduced to zero if the conditions of the agreement are met.

Resolution 99-0038 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that Resolution 98-0995, adopted on November 23, 1998, relating to an agreement leasing parking spaces from St. Louis County, is hereby amended by substituting a new form of agreement which is on file as Public Document No. 99-0111-11, which new agreement increases the number of parking spaces and increases the total estimated annual cost

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

to the city from \$5,760 to \$6,480, which amount shall be paid from the General Fund 100-500-1950-5441.

Resolution 99-0028 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Kerotest Manufacturing, Inc., be and hereby is awarded a contract for furnishing and delivering approximately eight gas gate valves for the gas division in accordance with specifications on its low specification bid of \$12,086, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 99-0018 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Energy Economics, Inc., be and hereby is awarded a contract for reconditioning domestic and large volume P.L.C. proving stand and a reconditioned ten foot bell for the water and gas department in accordance with specifications on its low specification bid of \$17,077.28, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 99-0020 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Groebner and Associates, Inc., be and hereby is awarded a contract for furnishing and delivering ten Mercury mini-PT internal modem, alkaline receptacle power packs with wall mounted R.S.I. board for the water and gas department in accordance with specifications on its low specification bid of \$20,128.50, terms net, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 99-0022 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Rosemount Sales be and hereby is awarded a contract for furnishing and delivering 11 pressure transmitters for the water and gas department in accordance with specifications on its low specification bid of \$8,086.06, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0541, Object 5227.

Resolution 99-0039 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Resolution 98-0371 to United Piping, Inc., for construction of one inch, two inch and three inch plastic gas mains, 1/2 inch and one inch plastic gas services and related

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

work at various locations, be amended to increase the amount by \$34,120.43 for a new total of \$139,095.43, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 99-0040 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer in Grand Avenue Place from Gogebic Street to 330 feet southwesterly to serve: Lots 5 through 13, Block 5, rearrangement of Lenroot's Addition to Ironton Division.

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 99-0008 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 98-0462 to L.H.B. Engineers and Architects for furnishing professional engineering services for design and construction for storm sewers in London Road at 52nd Avenue East, be amended to increase the amount by \$42,407 for a new total of \$96,846, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9800, Object 5319.

Resolution 99-0021 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Woodruff Lumber & Milling Company be and hereby is awarded a contract for furnishing and delivering lumber and miscellaneous carpentry supplies for the building maintenance division in accordance with specifications on its low specification bid of \$5,676.88, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5220.

Resolution 99-0041 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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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, F.E.M.R. has submitted a proposal for the training services in connection with this project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with F.E.M.R. 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 \$8,233, will be payable from the General Fund 100, Dept./Agency 100, Organization 1505, Object 5319.

Resolution 99-0019 was unanimously adopted.
Approved January 11, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Gold Key Lease, c/o Miller Hill Jeep, be and hereby is awarded a contract for furnishing 12-month lease for four Jeep Grand Cherokee, four-wheel drive vehicles for the police department in accordance with specifications on its low specification bid of \$19,758.72, terms net 30, FOB shipping point, payable out of Police Grant Programs Fund 215, Dept./Agency 200, Organization 2444, Object 5415.

Resolution 99-0023 was unanimously adopted.
Approved January 11, 1999
GARY L. DOTY, Mayor

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The following resolutions were also considered:

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement with Duluth police local for year 1999; said agreement to be in substantially the same form and containing the same terms and conditions as that document on file with the city clerk as Public Document No. 99-0111-12.

Resolution 99-0012 was unanimously adopted.
Approved January 11, 1999
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:

1. Authorization of Bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the City and its residents, that the City should issue its \$8,000,000 General Obligation DECC Improvement Bonds, Series 1999A, for the purpose of financing a portion of the improvements to the Duluth Entertainment Convention Center, as authorized by Laws of Minnesota 1974, Chapter 130, and Ordinance No. 9398, adopted December 21, 1998 (referred to as the "Bonds").

2. Issuance and Sale of Bonds. The terms and conditions of the Bonds and the sale thereof are set forth in the Official Terms of Offering, which is attached hereto as Exhibit A. Each and all of the terms and provisions set forth in the Official Terms of Offering are adopted and confirmed as the terms and conditions of the Bonds and the sales thereof, and the City Council shall meet at the time and place fixed herein to consider proposals for the purchase of the Bonds.

3. Negotiated Sale. Evensen Dodge, Inc., independent financial advisor to the City, is hereby authorized to solicit proposals for the sale of the Bonds as provided by Minnesota Statutes, Section 475.60, subdivision 2(9).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

4. Subsequent Resolution. The form, specifications and provisions for repayment of the Bonds shall be set forth in a subsequent resolution of this City Council.

Resolution 99-0025 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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Resolution 99-0027, by Councilor Hogg, authorizing execution of an agreement with John Beargrease Sled Dog Marathon, Inc., at a cost to the city of \$10,000, was introduced for discussion.

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

Mr. Allnew stated that when the council spends money it does not mean the public is not always happy about it. He went on to say that this donation is an illegal act, as the administration made an agreement without proper authorization from the people.

Resolution 99-0027 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the city is hereby authorized to execute an agreement with John Beargrease Sled Dog Marathon, Inc., for sponsorship and advertising promotion of the 1999 John Beargrease Sled Dog Marathon, which agreement is on file in the office of the city clerk as Public Document No. 99-0111-13, at a cost to the city of \$10,000, which shall be payable from Fund 258.

Resolution 99-0027 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

WHEREAS, general fund support of tourism related activities has exceeded original projections due to the extended season; and

WHEREAS, the tourism tax fund collections have exceeded original projections.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to transfer \$100,000 from Tourism Fund 258, 1998 excess tourism tax collections to the General Fund 100 - police department and maintenance division, to offset tourist related expenditures that exceeded budget.

Resolution 99-0037 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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Resolution 99-0003, confirming reappointments of Scott Anderson, Bea Johnson, Cheryl Rotondo and Christopher Wakefield to commission on disabilities; Resolution 99-0005, confirming reappointment of Debra Hannu to public arts commission; Resolution 99-0007, confirming appointment of Joan Nurminen to women's commission replacing Rebecca Skurla; Resolution 99-0009, confirming appointment of Wells Patten to parks and recreation commission replacing Walter Cressman; Resolution 99-0013, confirming reappointments of Stanley Gershgol, Michael Lang and Donn Larson to planning commission; Resolution 99-0014, confirming reappointments of Virginia Borden, James Harvie and James Kurtz to environmental advisory council; Resolution 99-0015, confirming appointment of Allen Willman to alcoholic beverage board replacing Craig Carlson; Resolution 99-0016, confirming appointments Maureen DeGrio and Melissa Kadlec to sister city commission replacing Cheryl Pattersen and Rodger Palmer; Resolution 99-0034, confirming reappointments of Thomas Conrad and Betsy Little to housing and redevelopment

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

authority; Resolution 99-0043, appointing _____, _____ and _____ to the North Shore wastewater board; and Resolution 99-0048, confirming appointment of George Weller to board of zoning appeals replacing Terry Morgan, by Councilor Rapaich, were introduced for discussion.

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

Mr. Allnew spoke against the resolutions, as boards and commissions are a façade of democracy and a pretense of the democratic process and should be eliminated altogether. He added that councilors are not elected for the purpose of appointing people to boards and commissions, but to oversee city officials to help make life better for the citizens.

Resolutions 99-0003, 99-0005, 99-0007, 99-0009, 99-0013, 99-0014, 99-0015, 99-0016 and 99-0034 were adopted as follows:

BY COUNCILOR RAPAICH:

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

COMMISSION ON DISABILITIES

Scott Anderson, Bea B. Johnson, Cheryl Rotondo and Christopher Wakefield for terms expiring November 1, 2001.

Resolution 99-0003 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

DULUTH PUBLIC ARTS COMMISSION

Debra Hannu for the term expiring September 30, 2001.

Resolution 99-0005 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

WOMEN'S COMMISSION

Joan V. Nurminen for a term expiring September 17, 1999, replacing Rebecca Skurla who resigned.

Resolution 99-0007 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

PARKS AND RECREATION COMMISSION

Wells Patten for a term expiring February 13, 2002, replacing Walter Cressman.

Resolution 99-0009 was unanimously adopted.

Approved January 11, 1999

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

PLANNING COMMISSION

Stanley Gershgol, Michael Lang and Donn Larson for terms expiring December 31, 2002. Resolution 99-0013 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

ENVIRONMENTAL ADVISORY COUNCIL

Virginia Borden, James Harvie and James Kurtz for terms expiring January 5, 2002.

Resolution 99-0014 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

ALCOHOLIC BEVERAGE BOARD

Allen Willman for a term expiring October 31, 2001, replacing Craig Carlson.

Resolution 99-0015 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

SISTER CITY COMMISSION

Maureen DeGrio for a term expiring March 30, 2002, replacing Cheryl Pettersen who resigned.

Melissa Kadlec for a term expiring March 30, 2001, replacing Rodger Palmer who resigned.

Resolution 99-0016 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

HOUSING AND REDEVELOPMENT AUTHORITY

Thomas J. Conrad and Betsy A. Little for terms expiring January 5, 2004.

Resolution 99-0034 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

- - -

Regarding Resolution 99-0043, appointing three people to the North Shore wastewater board, Councilor Rapaich moved to amend the resolution title and body by inserting the names of Eugene Elliot, Nelson Thomas and Councilor Edwards into the blanks, which motion was seconded and unanimously carried.

Resolution 99-0043, as amended, was adopted as follows:

BY COUNCILOR RAPAICH:

RESOLVED, that the following appointments are hereby made by the city council:

NORTH SHORE WASTEWATER BOARD

Eugene Elliott for a term expiring December 31, 1999.

Nelson Thomas for a term expiring December 31, 2000.

Patty Edwards for a term expiring December 31, 2001 (councilor).

Resolution 99-0043, as amended, was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0048 was adopted as follows:

BY COUNCILOR RAPAICH:

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

BOARD OF ZONING APPEALS

George Weller for a term expiring July 31, 2002, replacing Terry Morgan who resigned.

Resolution 99-0048 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

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

Section 1. Findings.

1.01 Pursuant to Laws of Minnesota for 1998, Chapter 404, Section 23, Subdivision 9, the legislature of the state of Minnesota has appropriated \$12,000,000 (the "grant") to the Duluth Entertainment Convention Center authority (the "authority") for the purpose of planning, designing, constructing and equipping capital improvements to the Duluth Entertainment Convention Center (the "project").

1.02 Pursuant to Ordinance No. 9372, the council must approve the location and design of the project prior to issuing bonds to finance the local share of such project.

1.03 The council has had an opportunity to meet with representatives of the authority, at which meeting the council was fully informed about the location and design of the project.

1.04 Pursuant to Minnesota Statutes, Section 16A.695, a precondition to receipt of the grant is execution and filing in the office of the county recorder or registrar of titles, as the case may be, of a declaration to the effect that the real property on which the project is to be

constructed cannot be sold or otherwise disposed of by the city without the approval of the Minnesota commissioner of finance (the "declaration").

1.05 A form of declaration to be signed by the city and the authority is on file in the office of the clerk as Public Document No. 99-0111-14 and has been presented to this council.

Section 2. Authorization and approval.

2.01 The location and design of the project are approved in substantially the form presented to the council.

2.02 The declaration is approved.

2.03 The mayor and the clerk are authorized and directed to execute, acknowledge, and deliver the declaration on behalf of the city with such changes, insertions, and omissions therein as the city attorney may hereafter deem appropriate, such execution to be conclusive evidence of approval of such document in accordance with the terms hereof.

2.04 The clerk or his designee is authorized and directed to file an executed copy of the declaration in the office of the county recorder or registrar of titles, as the case may be and to provide evidence of such filing to the Minnesota department of trade and economic development.

Resolution 99-0046 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, by Resolution 98-0240, adopted on March 16, 1998, the city council approved an agreement with the Greater Downtown Council (GDC) under which GDC was to conduct certain activities in the Downtown area of Duluth and the city was to pay GDC a total amount not to exceed \$87,194; and

WHEREAS, under the agreement the city is limited to reimbursing GDC for costs incurred performing each activity up to the amount set forth in the activities budget attached to the agreement; and

WHEREAS, GDC has an unexpended balance of \$3,075 in the budget for one activity (Clean & Safe Campaign) that it has requested to add to the budget for another activity (holiday season promotion); and

WHEREAS, this requested change in the budget would not affect the total budget limit under the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby approves the requested amendment (Public Document No. 99-0111-05) to the activities budget in the above referred to agreement with GDC.

Resolution 99-0053 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Eggebrecht Chevrolet GEO, Inc., be and hereby is awarded a contract for furnishing and delivering one 1999 four-wheel drive, two-door Chevrolet Tahoe for the water and gas department in accordance with specifications on its low specification bid of \$29,905.45, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 99-0031 was unanimously adopted.

Approved January 11, 1999

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCES TABLED**

BY COUNCILOR HOGG, PRESIDENT KEENAN AND COUNCILOR SWAPINSKI
98-051 (9401) - AN ORDINANCE REPEALING SECTIONS 50-37, 50-37.1 AND 50.37.3 OF THE
CITY CODE RELATING TO COMMUNITY UNIT PLANS.

Councilor Hogg moved to remove the ordinance from the table, which motion carried upon the following vote:

Yeas: Councilors Gilbert, Hardesty, Hogg, Rapaich, Swapinski and President Keenan -- 6

Nays: Councilors Edwards, Hales and Prettner Solon -- 3

Councilor Hogg stated that community unit plans always seem to be interpreted differently depending upon the project and how it was used for the project. He went on to say that community unit plans have not been as beneficial as intended but are used as a catch all when the zoning code don't fit a project. Councilor Hogg encouraged councilors to vote to remove community unit plans from the City Code and make it part of the comprehensive plan that the city is developing.

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

Bob Lyman urged support of the ordinance as it is outdated, loosely worded and a manipulative ordinance and reminded councilors that they have expressed frustration with the ordinance. Mr. Lyman also stated that it jeopardizes the integrity of neighborhoods while losing greenspace, and that the neighborhoods stand ready to partake in the planning of their neighborhoods.

Frank Holoppa stated that an ordinance like this is needed for planning and development. He reviewed that while there have been some projects that may have used this ordinance to get a project through, this ordinance helps projects that do not have a direct fit with the zoning ordinance and might not have been built. Mr. Holoppa stated that if there needs to be a change through the development of a comprehensive plan, there needs to be a community unit plan in place while the new plan is developed.

Bill Burns stated that by repealing this ordinance, it would be like telling developers to stay out of Duluth. He encouraged councilors to consider amending the sections of the ordinance to fix it, but not to abolish the ordinance without anything to take its place. Mr. Burns requested that the proposed amendment allow for a two year extension of projects that have not started construction because of the various delays that can impede their progress.

Councilor Hogg moved to amend the ordinance by adding the following language to the end of Section 2: "provided, however, that an amendment of any community unit plan which has been approved pursuant to sections 50-37, 50-37.1 and 50-37.3 of the Duluth City Code, but has not yet been implemented, may be approved by the council in conformance with the provisions of those sections until one year after the effective date of this ordinance," which motion was seconded for discussion. He stated that this amendment would allow for continuation of the projects that have been approved under the community unit plan but have not started construction.

Councilor Hardesty requested a friendly amendment to Councilor Hogg's amendment to change "one year" to "two years," which Councilor Hogg accepted.

Councilor Hogg's amendment unanimously carried.

Councilor Prettner Solon urged councilors to oppose the amended ordinance as it will halt or hamper the development in Duluth. She continued by saying that while there are some problems with the community unit plan, the council should make changes to the plan instead of throwing it out and starting from scratch. Councilor Prettner Solon encouraged the councilors to

keep this on the table until the other ordinance which was sent to the planning commission comes back to the council.

Councilor Edwards expressed concern about community developments already built under this ordinance that will be out of conformance if there is expansion in the future. She reviewed that the other ordinance the planning commission is considering is open for suggestions.

Councilors Hales reviewed that community unit plans are a tool for senior citizens living quarters. She also stated that it will take a long time to come up with a comprehensive plan and the city will be without a planning tool for least a year. Councilor Hales suggested the ordinance be retabled or have the planning commission also review this and wait for their comment.

Councilor Hardesty stated that it makes more sense to start over creating a new community unit plan as the current one lends itself to distortion of intent.

Councilor Gilbert stated his support of the ordinance and that the projects that have gone through the council have been stretched to fit the needs. He also suggested that developers be included when a new plan is developed and that the city can work to get it done on time.

President Keenan stated that the community unit plan is a bad plan and it has already been amended several times. He continued by saying that developers use it to get into the door and then the city comes back to lighten up the ordinance to help the developer out. President Keenan stated that it is a tool used for projects that do not meet the zoning code.

Councilor Hogg moved to call question, which motion carried upon the following vote:

Yeas: Councilors Gilbert, Hardesty, Hogg, Rapaich, Swapinski and President Keenan -- 6

Nays: Councilors Edwards, Hales and Prettner Solon -- 3

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

Yeas: Councilors Gilbert, Hardesty, Hogg, Swapinski and President Keenan -- 5

Nays: Councilors Edwards, Hales, Prettner Solon and Rapaich -- 4

[Editor's note: This ordinance was vetoed by Mayor Doty (Public Document No. 99-0126-03).]

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BY COUNCILOR PRETTNER SOLON

98-047 (9402) -- AN ORDINANCE AUTHORIZING ACQUISITION OF CERTAIN PROPERTY NEAR 26TH AVENUE EAST FROM THE MNDOT FOR \$45,038.50 AND SALE THEREOF TO EDGEWATER SERVICES, INC., FOR \$46,538.50, SUBJECT TO AN ACCESS LIMITATION.

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

Councilor Prettner Solon moved to amend Section 2 of the ordinance by deleting the words "a copy of" and replacing them with "in the form of that"; and by adding after the Public Document No. the words "as modified pursuant of Section 3 below," and insert a new Section 3 as follows:

"Section 3. That, prior to entering into the agreement authorized hereby, Public Document No. _____ shall be amended to include the following requirements:

(a) That the height of any structure constructed on the above-described property not exceed 20 feet in height;

(b) That the purchaser of said property (the "purchaser") agree to construct or install a buffer between purchaser's property and Alexander Street, the nature and design of which will be subject to the prior review and approval by the director of the planning and development department (the "director");

(c) That purchaser agree to leave space for the development of a 48 inch wide sidewalk on the north side of purchaser's property adjacent to Alexander Street and to dedicate an easement to the city therefore if requested by the director to do so;

(d) That the outdoor lighting for purchaser's proposed development on the property be subject to the prior review and approval of the director," which motion was seconded and unanimously carried.

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

Dan Thompson, Edgewater Services, Inc., urged passage of this ordinance as he has met with the neighbors and he agrees to the conditions as stated.

Sue Duering stated that the meeting between Mr. Thompson and the neighbors was productive and they can support the project.

Councilor Gilbert stated that this is an example of good government, where the neighborhood and the city have worked together for a favorable result.

Councilor Prettner Solon moved passage of the ordinance, as amended, and the same was unanimously adopted.

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The meeting was adjourned at 9:10 p.m.

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

- - -

ORDINANCE NO. 9402

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AUTHORIZING ACQUISITION OF CERTAIN PROPERTY NEAR 26TH AVENUE EAST FROM THE MNDOT FOR \$45,038.50 AND SALE THEREOF TO EDGEWATER SERVICES, INC., FOR \$46,538.50, SUBJECT TO AN ACCESS LIMITATION.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to purchase the herein-after-described property in St. Louis County, Minnesota, from the Minnesota department of transportation for the amount of not to exceed \$45,038.50, payable from Fund 255, subject to the execution of the agreement described in Section 2 below:

Those portions of Lots 4 and 5, Block 47, HARRISONS DIVISION of Duluth, according to the recorded plat thereof, lying northwesterly of the following-described line:

Beginning at a point on the southwesterly line of said Lot 4, distant 70 feet northwesterly of the most southerly corner thereof; thence run easterly to the intersection of the southwesterly line of Lot 5, Block 47, and a line run parallel with and distant 40 feet northwesterly of the southeasterly line of said Lot 5; thence northeasterly along said 40 foot parallel line and its northeasterly extension to the northeasterly line of Lot 8, said Block 47 and there terminating; subject to the following restriction: that no access shall be permitted to Trunk Highway N. 35 from the lands herein conveyed except that limited vehicular access shall be permitted to said Lot 4, being the right of ingress only.

Section 2. That the proper city officials are hereby authorized to enter into an agreement, in the form of that which is on file in the office of the city clerk as Public Document No. 99-0111-15, as modified pursuant of Section 3 below, for the sale of the hereinbefore described property, by quit claim deed, to Edgewater Services, Inc., for the sum of \$46,538.50 or the city's cost,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

whichever is greater, said sum to be deposited in Fund 255, and execute all documents necessary with regard to said conveyance.

Section 3. That, prior to entering into the agreement authorized hereby, Public Document No. 99-0111-15 shall be amended to include the following requirements:

(a) That the height of any structure constructed on the above-described property not exceed 20 feet in height;

(b) That the purchaser of said property (the "purchaser") agree to construct or install a buffer between purchaser's property and Alexander Street, the nature and design of which will be subject to the prior review and approval by the director of the planning and development department (the "director");

(c) That purchaser agree to leave space for the development of a 48 inch wide sidewalk on the north side of purchaser's property adjacent to Alexander Street and to dedicate an easement to the city therefore if requested by the director to do so;

(d) That the outdoor lighting for purchaser's proposed development on the property be subject to the prior review and approval of the director.

Section 4. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: March 7, 1999)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed January 11, 1999
Approved January 11, 1999
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, January 26, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of meetings held on October 5, 13 and 26, 1998, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0126-01 Lillian Stocke submitting:

(a) Petition to construct permanent street improvement in Creekside Circle from Appleridge Drive to 1,094 feet easterly through the cul-de-sac. -- Assessor

(b) Waiver agreement waiving rights to public hearing by special assessment board for the construction of a permanent street improvement in Creekside Circle from Appleridge Drive to 1,094 feet easterly through the cul-de-sac. -- Engineer

99-0126-02 St. Mary's Duluth Clinic Health System, by LHB Engineers & Architects, submitting petition for concurrent use permit for a new entrance and modified skywalk structure to be located on and above Third Street between Fourth and Fifth Avenues East. -- Planning commission

99-0126-22 Paul and Kathleen Wrazidlo submitting petition to vacate an alley adjacent to property located east of Basswood Avenue and south of Myrtle Street. -- Received

99-0126-04 Evensen Dodge, Inc., submitting:

(a) Postsale analysis regarding \$1,390,000 G.O. utility revenue bonds, Series 1998D, \$2,750,000 G.O. improvement bonds, Series 1998E, \$1,940,000 G.O. equipment certificates of indebtedness, Series 1998F;

(b) Presale analysis regarding \$8,000,000 G.O. Duluth Entertainment Convention Center improvement bonds, Series 1999A and \$9,000,000 G.O. tax and aid anticipation certificates of indebtedness of 1999. -- Received

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REPORTS OF OFFICERS

99-0126-03 Mayor Doty submitting veto of Ordinance 9401, repealing Sections 50-37, 50-37.1 and 50-37.3 of the City Code relating to community unit plans. -- Received

Councilors Hogg, Swapinski and President Keenan stated their displeasure with the Mayor's veto, noting that they felt a project that is coming forth could be done without a community unit plan, that previously approved community unit plans are devisive to neighborhoods and that a point was made that five councilors are extremely disappointed with how community unit plans have been used.

99-0126-05 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses (raffles) from: (a) Marshall School on May 7, 1999; (b) The NRA Foundations, Inc., on September 14, 1999. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-0126-06 Civil service board minutes of November 3, 1998, meeting. -- Received

99-0126-07 Environmental advisory council minutes of December 2, 1998, meeting. -- Received

99-0126-08 Heritage preservation commission minutes of: (a) September 18; (b) October 20; (c) November 18; (d) December 9, 1998, meetings. -- Received

99-0126-09 Human rights commission submitting report for 1998. -- Received

99-0126-10 Planning commission minutes of December 8, 1998, meeting. -- Received

99-0126-11 Special assessment board minutes of December 8, 1998, meeting. -- Received

99-0126-12 Technical design advisory committee for DWMX-D minutes of: (a) September 15; (b) November 12, 1998, meetings. -- Received

99-0126-13 Tree commission submitting recommendations for future street improvement program neighborhood informational meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

J.P. King stated his objections to the Uniform Fire Code, noting that it is his opinion that the city hall building was in extreme violation of the Fire Code and that the city is over-enforcing the Code to citizens.

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Burt Olson stated his concerns over the Lakewalk parking lot that is scheduled to be built at 27th Avenue East and Alexander Street. He stated that the walk is planned to be extended from the parking lot easterly to 28th Avenue East and then to Jefferson Street. Mr. Olson stated that part of that area at 28th Avenue East is his driveway. He questioned the safety of this and noted that in a letter from the city claims office regarding water runoff damage, it stated that this is his property and he would be responsible for the damage. Mr. Olson noted that access from Jefferson Street to this parking lot is already being planned for 27th Avenue East.

Arlene Olson stated her concerns of bringing this activity directly into a private residence and neighborhood.

To councilors' questioning, Administrative Assistant Hartl stated that he would inquire as to the status of this project.

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

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

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BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are authorized and directed to execute that certain agreement on file as Public Document No. 99-0126-14, 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 \$148,350 to be paid from General Fund 100-015-2050-5541.

Resolution 99-0050 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Little Falls Machine, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Falls plows and wings as needed during 1999 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 99-0057 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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 1999 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 99-0058 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Praxair Distribution, Inc., be and hereby is awarded an annual contract for furnishing welding and industrial gases and cylinder rental for the various departments/divisions in accordance with unit prices as specifications on its low bid of approximately \$7,850, terms net 30, FOB destination, payable out of various funds, dept./agencies, organizations and objects.

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

Resolution 99-0059 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that O.K. Auto Parts, Inc., be and hereby is awarded a contract for furnishing and delivering air, oil and fuel 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 Services Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 99-0060 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that St. Joseph Equipment be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Case equipment for the fleet services division as needed during 1999 estimated to total \$15,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 99-0061 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Ladder Towers, Inc., be and hereby is awarded a contract for furnishing and delivering one 75 foot aerial ladder/pumper fire truck for the fire department in accordance with specifications and payment terms on its low specification bid of \$417,995, terms net 30, FOB shipping point, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2009, Object V901.

Resolution 99-0065 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of stock of the on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 1999, and off sale nonintoxicating malt liquor license for the period ending April 30, 1999, subject to departmental approvals:

Conmar, Inc. (Round Up Bar & Grill), 415 East Fourth Street, with Michael Ronning, 100 percent stockholder.

Resolution 99-0066 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 1999, subject to departmental approvals:

Duluth Airport Authority (Afterburner Lounge), 4701 Grinden Drive, transferred from Ice Sculptures, Inc. (Afterburner Lounge), same address, with Loren Johnson, manager.

Resolution 99-0067 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license by the liquor control commissioner, subject to departmental approvals, application fee of \$400, and any specific restrictions:

Duluth Curling Club, Inc., 327 Harbor Drive, for March 3 - 6, 1999, with Ross Litman, manager.

Resolution 99-0068 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that MacQueen Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Elgin sweepers, Sno-Go snow blowers and vactors for the fleet services division as needed during 1999 for an estimated total of \$28,000,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 99-0071 was unanimously adopted.
Approved January 26, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Computer World, Inc., be and hereby is awarded a contract for furnishing computer firewall configuration, support and training for the data processing division in accordance with specifications on its low specification bid of \$8,576.71, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organizations 2108, 2107, and Objects E807, E728.

Resolution 99-0080 was unanimously adopted.
Approved January 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to execute an extension of the existing software license rental agreement with International Business Machines Corporation covering operating software for the IBM 9221 mainframe for a one year period beginning January 1, 1999, through December 31, 1999, at an estimated annual cost of \$7,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5319.

Resolution 99-0082 was unanimously adopted.
Approved January 26, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to execute a one year software maintenance agreement for software support services with Geographic Software Specialists, Inc., at an annual estimated cost of \$10,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5309.

Resolution 99-0083 was unanimously adopted.
Approved January 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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

Resolution 99-0088 was unanimously adopted.
Approved January 26, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

RESOLVED, that the proper city officers are hereby authorized to execute a maintenance agreement with International Business Machines Corporation covering maintenance of various data processing equipment beginning January 1, 1999, through December 31, 1999, at an estimated annual cost of approximately \$66,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5404.

Resolution 99-0091 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

COMMISSION ON DISABILITIES

Monica Butche for a term expiring November 1, 2001, replacing Don Barnes.

Richard Maki for a term expiring November 1, 2001, replacing Kenneth Cayo.

Resolution 99-0035 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

DULUTH PUBLIC ARTS COMMISSION

Catherine Ishino, Timothy Meyer and Cecilia Von Rabenau for terms expiring September 30, 2001, replacing Jon Helstrom, Edward Koch and Neale Roth, respectively.

Resolution 99-0036 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

PARKS AND RECREATION COMMISSION

Karen Erickson (at large), Ken Gilbertson (professional), Denis D. Sauve (District 3) and Ronald Weber (community education) for terms expiring February 13, 2002.

Resolution 99-0063 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

WOMEN'S COMMISSION

Virginia C. Bayerl and Sharon McMurrough for terms expiring September 17, 2001.

Resolution 99-0064 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 99-0126-15 to City Contract No. 18366 with Spirit Valley Citizens' Neighborhood Development Association, Inc. (SVCNDA), extending the term of the agreement for an additional six month period with no change in compensation under the agreement.

Resolution 99-0051 was unanimously adopted.

Approved January 26, 1999

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. 99-0126-16, with Neighborhood Housing Services, Inc. (NHS), for the operation of a revolving loan fund for residential home ownership and rehabilitation in an amount not to exceed \$132,000, payable out of the 1997 CDBG Federal Program Fund 262-NHS Housing Revitalization Account No. 6004.

FURTHER RESOLVED, that the city council hereby approves an amendment dated January 11, 1999, to the NHS program guidelines and the policies and procedures for revitalization and the revolving loan fund.

Resolution 99-0078 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that Marshfield Laboratories, veterinary division, be and hereby is awarded a contract for furnishing veterinary tests for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$8,000, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 400, Organization 1814, Object 5305.

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

Resolution 99-0056 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that Northland Foods, Inc., be and hereby is awarded a contract for furnishing and delivering various fruits and vegetables for zoo animals' consumption at the Lake Superior Zoo in accordance with specifications on its low specification bid of approximately \$7,000, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 400, Organization 1814, Object 5245.

Resolution 99-0092 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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 \$35,000, terms net 30, FOB destination, \$10,000 payable out of Water Fund 510, Dept./Agency 900, Organization 0543, Object 5227 and \$25,000 payable out of Water Fund 510, Dept./Agency 900, Organization 0543, Object 5220.

Resolution 99-0069 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Eastern Electric Apparatus, Inc., be and hereby is awarded a contract for furnishing maintenance and testing of Lakewood water plant pump switches for the water and gas department in accordance with specifications on its low specification bid of \$5,515, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0550, Object 5404.

Resolution 99-0093 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth desires to complete a model of the gas distribution system; and

WHEREAS, the city desires to hire a consulting engineer to provide computer software, training and technical assistance to model the gas distribution system; and

WHEREAS, Stoner Associates has submitted a proposal for professional 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 Stoner Associates to provide the city with such complete consulting services.

BE IT FURTHER RESOLVED, that the cost of said consulting services, estimated at \$60,000, will be payable from the Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 99-0094 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, Resolution No. 98-0926 authorized the lease of an equipment storage building on Calvary Road for a period of six months at \$1,200 per month; and

WHEREAS, said resolution and agreement attached to said resolution listed Voyageur Bus Company & Minnesota Coaches, Inc., as the party the city was contracting with; and

WHEREAS, there was an error in communication between the contracting parties and the real party in interest leasing the property to the city is MJK-POR Real Estate Partnership, Inc.

NOW, THEREFORE, BE IT RESOLVED, that Resolution No. 98-0926 and the agreement attached to said resolution are amended to substitute the name MJK-POR Real Estate Partnership, Inc., for the name Voyageur Bus Company & Minnesota Coaches, Inc., wherever that name is found in either the resolution or the agreement attached to the resolution.

Resolution 99-0052 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved January 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

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 \$20,000 for the maintenance of the Duluth snowmobile trails for the 1998-1999 season; said agreement to be in the form of Public Document No. 99-0126-17 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 \$20,000 to the Duluth Area Association of Snowmobile Clubs for snowmobile grooming and maintenance during the 1998-1999 season.

Resolution 99-0072 was unanimously adopted.

Approved January 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to execute a supplemental Minnesota trail assistance program agreement with the Minnesota department of natural resources in the sum of \$4,000 for the maintenance of the Duluth snowmobile trails for the 1997-1998 season; said agreement to be in the form of Public Document No. 99-0126-18(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 \$4,000 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. 99-0126-18(b), payable from the General Fund 100-500-1920-4233.

Resolution 99-0073 was unanimously adopted.

Approved January 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

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. 99-0126-19, and under which agreement the city will receive \$6,700 to reimburse it for costs incurred in maintaining cross country ski trails in the city of Duluth during the 1998-99 ski season. The reimbursement should be deposited in General Fund 100, Agency 500, Org. 1920, Revenue Source 4232.

Resolution 99-0075 was unanimously adopted.

Approved January 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, by the Resolution of Intent numbered 98-1026, the council did request the administration to prepare plans and specifications for the construction of a sanitary sewer in Hagberg Street from 425 feet to 645 feet westerly of Hutchinson Road (City Job No. 9157SA98); and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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 owners have waived their right to a hearing before 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 \$16,000, payable from the Special Assessment Fund 810, Agency 038, Organization 5313, 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 No. 99-0208-19(a) and which description is hereby incorporated herein by reference to Public Document No. 99-0208-19(a); that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all 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 99-0076 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to acquire a utility easement hereinafter described from the Lakeview Covenant Church for a consideration of \$500, payable from Fund No. 531-500-5441:

A permanent easement for utilities over, under and across the following described tract of land:

Part of the southerly 330 feet of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 1, T50N, R14W lying west of Jean Duluth Rd. and east of a line running from a point 411.05 feet east of the SW corner to a point on the north line of the southerly 330 feet distant 660 feet east of the north/south center line of Section 1.

Said easement being more particularly described as follows, to-wit:

Commencing at the northeast corner of the above described parcel, said corner also being the southeast corner of Lot 6, Block 4, Morningside Division-Richard's Addition; thence westerly along the north line of the above described parcel a distance of 12.85 feet to a point, said point being the beginning of the easement to be described; thence southwesterly along a line parallel to and ten feet west of Jean Duluth Road a distance of 34.03 feet; thence northeasterly along a line perpendicular to the last described line a distance of 10.00 feet; thence northeasterly along a line parallel to and 20.00 feet west of Jean Duluth Road a distance of 25.97 feet to a point on the north line of the above described parcel; thence easterly along the north line a distance of 12.85 feet to the point of beginning, and there terminating.

Resolution 99-0090 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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 \$9,080, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5319.

Resolution 99-0070 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that E/S Support Services be and hereby is awarded a contract for furnishing computer hardware and software maintenance during 1999 for the police department in accordance with specifications on its proposal of \$15,450, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5404.

Resolution 99-0084 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

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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 29 mobile data terminals for the police department in accordance with specifications on its low specification bid of \$15,360, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5441.

Resolution 99-0085 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized to pay the county of St. Louis an approximately \$40,000, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5445 for the boarding at the St. Louis County jail during 1999 of persons charged with violations of the Duluth City Code, 1959, as amended; said boarding fees to be paid in four equal quarterly installments on March 31, June 30, September 30 and December 31, 1999.

Resolution 99-0087 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Stratus Computer be and hereby is awarded a contract for providing 12 months of maintenance covering computer hardware and software for the police department in accordance with specifications on its low specification bid of \$31,617.72, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5404.

Resolution 99-0089 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 99-0062, by Councilor Rapaich, confirming appointments of Dean Casperson, Kay Slack, Robert Reichert, Marsha Blackburn, Johnnie Forest, Janet Carter, Marcia Hales and Frank Jewell to the Duluth housing commission, was introduced for discussion.

Mr. Hartl requested that the resolution be referred back to the administration at this time.

Councilor Rapaich moved to remove the resolution from the agenda and refer it to the administration, which motion was seconded and unanimously carried.

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Resolution 99-0074, by Councilor Hogg, authorizing execution of a major sponsorship agreement with Grandma's Marathon-Duluth, Inc., for the 1999 Grandma's Marathon at a cost of \$15,000 plus in kind services, was introduced for discussion.

President Keenan stated that he would not be discussing or voting on this resolution because he is executive director of this entity.

Resolution 99-0074 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the proper city officials are hereby authorized to execute a major sponsorship agreement with Grandma's Marathon-Duluth, Inc., for the 1999 Grandma's Marathon, which agreement is on file in the office of the city clerk as Public Document No. 99-0126-20, at a cost to the city of \$15,000 plus in kind services, which shall be paid from Fund 258-030-1431-5490.

Resolution 99-0074 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: President Keenan -- 1

Approved January 26, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0049, by Councilor Prettner Solon, authorizing DEDA to condemn certain property for the Oneota III redevelopment project, was introduced for discussion.

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

Ralph Anderson, a resident of one the properties affected by the resolution, stated this has been in the process for over three years and he has been looking for a new location to move to. He stated that the value for the property is not the question, just that they have not been able to find comparable housing. In conclusion, Mr. Anderson asked that they be allowed a little while longer to find housing and not be forced out with this process.

Councilors raised concerns over the immediate need for this property and also that they would like to see a map and know how this specific property fits into the overall development of the area.

Cynthia Albright, acting director of planning and development, stated that the public purpose of acquiring the property is for economic development and that the parcel of land cannot be developed until this property is acquired. She stated that she is aware that these individuals have been shown approximately 270 properties. In conclusion, she noted that this started in 1995 and that in 1997 this issue was before the council.

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

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Resolution 99-0079, by Councilor Prettner Solon, granting a special use permit to Doctor Donna Gangestad for clinic in a residential zone for property located at 1001 Missouri Avenue, was introduced for discussion.

Councilor Hogg felt that it is bad policy to set a precedent for a commercial activity in a residential neighborhood.

Councilor Hardesty noted that the clinic would be right across the street from a children's home, a block or two from a nursing home, an apartment building, two university campus's and also on a well traveled street.

Councilor Gilbert stated that usually when a resident wants to put a business in their home there is neighborhood opposition and that with this application there has not been any.

Resolution 99-0079 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Doctor Donna Gangestad has submitted to the city council a request for a special use permit for a clinic in a residential zone, in accordance with Section 50-35(h) of the City Code, on property described as the south ½ of Lots 26, 27, 28, Block 5, Superior View Addition and located at 1001 Missouri 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 Donna Gangestad to allow for the operation of a clinic in a residential zone at 1001 Missouri Avenue, on the condition that the permit be limited to and maintained in accordance with the application submitted by Donna Gangestad dated, October 8, 1998, as amended and dated, January 5, 1999, and signage plan by Dave Gilsvick dated, 9-20-98, as identified as Public Document No. 99-0126-21 and with the following terms and conditions limitations:

- (a) The hours of operation be limited to 7 AM to 9 PM;
- (b) The sign structure not exceed six feet in height and lighted only during the hours of operation.

Resolution 99-0079 was adopted upon the following vote:

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

Nays: Councilors Edwards, Hales, Hogg and Prettner Solon -- 4

Approved January 26, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0097, by President Keenan, in support of using tobacco settlement funds for tobacco control, was introduced for discussion.

Councilor Edwards expressed her concern over the last two paragraphs of the resolution, thinking that those sections were a little premature.

Councilor Hales felt that this decision is something that the state legislature will decide and the city council has not debated this issue yet.

Councilor Hogg did not think that the citizens of Duluth elected councilors to be lobbyists and that there is no justification to take a position on this issue.

Councilors Prettner Solon, Gilbert and Hardesty stated that they thought it was appropriate for the council to inform the legislature on how the council felt on this issue.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Councilor Hogg moved to remove the resolution from the agenda, which motion was seconded and failed upon the following vote:

Yeas: Councilors Edwards, Hales and Hogg -- 3

Nays: Councilors Gilbert, Hardesty, Prettner Solon, Rapaich, Swapinski and President Keenan -- 6

Councilor Hales moved to amend the resolution to include in the first paragraph of the resolution the total number of councilors and how many councilors support this resolution, which motion was seconded and failed upon the following vote:

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

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

Councilor Swapinski expressed his view that when a vote of the council is made, it is the responsibility of all councilors to abide by majority vote.

Resolution 99-0097 was adopted as follows:

BY PRESIDENT KEENAN:

WHEREAS, the state of Minnesota has settled its lawsuit against the tobacco industry generating \$6.1 billion for the state including a three percent consent judgement consisting of a \$102 million cessation fund and \$100 million research fund; and

WHEREAS, each year tobacco related disease accounts for 6,400 deaths (17 percent of all deaths) in Minnesota costing over \$1.3 billion in medical and work related expenses; and

WHEREAS, environmental tobacco smoke is a leading cause of asthma in children and responsible for 3,000 annual lung cancer deaths among nonsmokers; and

WHEREAS, internal industry documents show that cigarette companies aimed their multi-billion dollar advertising campaigns at youth because they knew they must attract new, young tobacco users to replace those who have died, or managed to quit; and

WHEREAS, more Minnesota youth are smoking (e.g., between 1992 and 1995, weekly smoking rates among ninth grade students increased by 50 percent); and

WHEREAS, the Koop-Kessler advisory committee on tobacco policy and public health calls for funding the development of comprehensive tobacco prevention and reduction programs and for such funding to be administered in a manner independent from the political influence of the tobacco industry; and

WHEREAS, the settlement recommends that \$650 million (11 percent of the total settlement) be earmarked for tobacco prevention; and

WHEREAS, the Minnesota attorney general has proposed the creation of a nonprofit corporation called the Minnesota Partnership for Action Against Tobacco (MPAAT) to administer the three percent consent judgement funds set aside by the court.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council supports the creation of an independent nonprofit organization (the Minnesota Partnership for Action Against Tobacco (MPAAT)) directed by a board of directors with significant representation from public health, health care, medical and research organizations to administer the three percent consent judgement funds consisting of a \$102 million cessation account and \$100 million research account.

RESOLVED FURTHER, that the Duluth City Council actively supports legislative approval of an additional \$650 million over the next five years to fund a comprehensive tobacco prevention program in Minnesota as described in the state's settlement agreement.

RESOLVED FURTHER, that the Duluth City Council supports oversight of the additional \$650 million prevention fund by the independent nonprofit organization, MPAAT, to ensure long term sustainability and independence from the political influence of the tobacco industry.

Resolution 99-0097 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Yeas: Councilors Gilbert, Hardesty, Prettner Solon, Rapaich, Swapinski and President Keenan -- 6

Nays: Councilors Edwards, Hales and Hogg -- 3

Approved January 26, 1999

GARY L. DOTY, Mayor

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Resolution 99-0055, by Councilor Gilbert, awarding contract to J & D Enterprises, Inc., for thawing water lines, in the amount of \$10,000, was introduced for discussion.

Councilor Hogg noted that he would like to see the contract and also questioned why the water and gas department does not do this type of service.

Mr. Hartl stated that in this case there is no formal contract and that the bid form is the contract.

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

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Cellular One Duluth/Superior (\$50,000) and Airtouch Cellular/Bellevue (\$25,000) are hereby awarded contracts for furnishing and delivering cellular air time service and hardware for the various departments in accordance with specifications on its low specification bids for a total amount of \$75,000, terms net 30, FOB job sites, various funds, dept./agencies, organizations and objects.

Resolution 99-0081 was unanimously adopted.

Approved January 26, 1999

GARY L. DOTY, Mayor

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The meeting was adjourned at 9:05 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, February 1, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0201-01 The following submitting communications regarding proposed HarborPlace strategic development plan (99-0118R): (a) Lori Anderson; (b) Robert B. Ballou; (c) Brian Daugherty; (d) Sharon Kirtley; (e) League of Women Voters-Duluth; (f) Steven McNeil; (g) Anne Roberts; (h) Dorothy Schnell; (i) Karl J. Vander Horck. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-0201-04 Planning commission minutes of January 12, 1999, meeting. -- Received

99-0201-02 Seaway Port authority of Duluth submitting letter regarding proposed HarborPlace strategic development plan (99-0118R). -- Received

99-0201-03 Tree commission submitting letter regarding proposed HarborPlace strategic development plan (99-0118R). -- Received

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MOTIONS AND RESOLUTIONS

Resolution 99-0118, by Councilor Prettner Solon, conditionally approving the HarborPlace strategic development plan, was introduced for discussion.

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At this time 7:40 p.m., the public hearing regarding the proposed HarborPlace strategic development plan began.

Tom Cotruvo reviewed the background of the Bayfront property. He went on to show how the elements of the plan, which is attached to the resolution, would look on this property by the use of slides and overheads.

The following speakers spoke in support of the plan: Roger Palmer; Grant Odegard; Frank Holappa; Cindy Hayden; Sandy Welles; Mike Conlan, representing the Greater Downtown Council; Mike Polzin; Riki McManus; Rebecca Lewis; David Ross, representing the Duluth Area Chamber of Commerce.

Their reasons for supporting the resolution were: this plan has tried to incorporate the concerns of different perspectives; it allows for the enlargement of Bayfront Park; it will increase the reasons for more people to visit the park; in a free enterprise system, new businesses choosing to be there will be an asset; this is just a concept that might have some changes; Duluth has done a great job so far to preserve its past and will with this plan; citizen process took consideration of all aspects for this area and the people; private dollars will be needed to support this plan; it incorporates a needed consideration for what veterans have sacrificed for us; Duluth needs to move from the paralyzes of analysis; this plan has self-supporting components and would not put as large a burden on public financing as would other plans; Duluth needs to bring economic reality to this now and this should proceed on to the next level; leverage of private funding is imperative for this project; Greater Downtown Council endorses the plan; the arboretum and conservatory are excellent but there is a question if they can financially be sustained; the plan captures the character of Duluth; Duluth Area Chamber of Commerce supports the plan; the layout

is very good; and the commercial aspects of this plan would expand existing economic activity of the Downtown and Canal Park areas.

The following individuals spoke of their concerns to the resolution or in opposition to the resolution: K.L. Lewis; John Pastor, representing the tree commission; Rosemary Guttormsson, representing the League of Women Voters; Helen Youngstrand; Clayton Oslund; Dick Haney, representing Bayfront Visions Group; Robert Bruce, representing Bayfront Visions Group; Cord Carbert; Nancy Nelson; Mary VanEvera; Kathy Winkler; Joseph Braeu; Bob Powless; Lyle Winters; Deb Shubat, representing the Bayfront Vision Group; Koni Sundquist; Dick Hudelson; Joel Sipress; Brian Daugherty, representing the Canal Park Business Association; Bruce Eisenach, representing the From the Four Winds Company; Kathy Hannen; Bob Olen; Rod Ramund; Terry Brown; Brian Chilberg and Steve McNeil, representing a group supporting a multi-generational community center concept; Ed Kale; Candice Richards; Lynn VanDervort; Kent Worley, representing the Bayfront Vision Group; Jerry Kimball; Eric Dings; Linda Strom; Jennifer Budley; Peggy Marrion; Rose Loeffler-Kemp; Elizabeth Rypstat-Kinney and Sharon Kirtley.

Reasons of concern or opposition to the resolution were: there would be too many structures located in the immediate Bayfront area; a thorough review of all the options is needed for this area, including the Marshall Bayfront vision plan; like the high quality synergy of the business and public areas of the New Jersey board walk, this also can be achieved here; the desire to keep open areas by Lake Superior and the harbor; the need to use parking areas away from this area; the tree commission supports Julia and Caroline Marshall Bayfront vision plan (BVP); the need to address conditions of environmental reviews before final approval; no need to hire an outside consultant to tell us what is best for us; why plan for tourists when emphasis should be for local citizens; why would residents of townhouses want to live where there is likely to be so much traffic noise; the plan should have only one multi use building with bathrooms; the need to maintain uniqueness of this beautiful city when one comes over the hill; arboretum/conservatory and botanical gardens would be an asset; arboretums around the country have been financially successful; the BVP is consistent with 2001 plan; the BVP will compliment the natural environmental aspects of that area; the role of open space is a prominent need for citizens and provides an economic return, such as the Blues Festival; BVP volunteers want to work with the city for the best use; there still is room for some retail, but open space needs to be the priority; greater green space is needed for the tranquility of the area; trees are needed to enhance the open space and offer relief on hot days; the inclusion of the arboretum in the Equinox plan is important and vital; the Marshall sisters were visionaries and the water garden, arboretum and open spaces are what they would of wanted; an ancient Indian belief is that, in making good decisions one must consider what is going to be good for seven generations into the future and that is what is needed here; the needs for indoor activities of the arboretum and conservatory would be an asset for the citizen all throughout the year; people's attitudes change for the better when they come into a winter garden/arboretum; gardening is the No. 1 recreational hobby in the nation and even surpasses fishing and hunting; Canal Park is the entertainment district and it is far from finished; retail development is reaching the saturation point with very large amounts of undeveloped retail space already in the Canal Park and Downtown areas that equals the area of the Bayfront area; if there was adequate parking in the Canal Park area it would handle the retail aspect that this area is known for; the From The Four Winds Company would endorse the use of this area to process natural resources that could be shipped out from the existing slip instead of a recreational park concept; gardening/horticulture is an industry also; the economic aspect of the Equinox plan is not reality from a businessman's viewpoint; quality central green space, such as New York City's Central Park, is what is needed; economic development should not be the main

intent; green space compliments festivals and events; the considerations that were used in developing the freeway/Lakewalk to make it so accommodating could be applied here; there is economic development to be seen from green spaces; the community center concept would interact favorably with other developments in this area; the Shoreview Community Center plan (Public Document No. 99-0205-01(f)) is a model of how well a community center plan would work here; projects like New York City's Chelsea Pier (Public Document No. 99-0205-01(f)) also show how a community center could be incorporated into a pier; Quebec City utilized their bayfront area as a park with a couple of interpretive centers, without any roads through it, that has been proven to be very successful; accessibility to the pedestrians is what is needed here; a plan needs to incorporate a memorial to all veterans; people are coming here because of the lakeshore access; this proposed plan has eight acres of roof and parking, which is too excessive; use of noneconomic aspects should be considered to make this plan better, such as a lakewalk; the actual park area will be smaller with these developments than that which is being proposed; councilors should insure that the conditions listed in this resolution are specifically incorporated before approving the resolution; councilors should also consider relocating the financially successful Fond du Luth Gaming Casino to this area to complement the convention center attractions; an arboretum is an educational aspect that complements the lake; retail commercial development should not be the primary aspect for this area; the Bayfront visions plan is supported by a very large cross-section of Duluthians; and green space has a special value, even though it is hard to quantify.

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At this time, 10:25 p.m., the hearing was closed and the regular order of business was resumed.

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Cynthia Albright, acting manager of business development, stated that the Duluth economic development authority's (DEDA's) calculations show that the total area of the park is larger than was previously stated and that some of the misunderstanding was due to the status of referring only to the property originally owned by the city, not what is currently owned by DEDA.

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At this time, 10:58 p.m., Councilor Hardesty moved to extend the meeting until 11:10 p.m., which motion was seconded and unanimously carried.

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Councilor Hardesty felt that with all the ideas and information presented, that it would be best to have more discussion and thought put into the final outcome.

Councilor Hales noted that she has had the opportunity to see in more detail the content of the Bayfront visionary plan and would hope that the rest of the council could see that and the other concepts presented here tonight, in greater detail.

Councilors expressed concern that there is a need to review all the options, given the long-term importance and effect of this decision. They further felt that these options and their respective possible financing needed to be addressed.

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At this time, 11:10 p.m., Councilor Hardesty moved to extend the meeting until 11:20 p.m., which motion was seconded and unanimously carried.

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Councilors expressed an interest in seeing how both plans could be incorporated into one plan so as not to have to choose one plan over the other.

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Councilor Prettner Solon noted that the city needs to decide if this project is going to be an economic development effort, using DEDA and its resources, or a public venture for open and community space. She noted that up to now DEDA has been purchasing the property for economic development and questioned how much public areas could be established if this is to remain an economic development project. In addition, Councilor Prettner Solon felt that with more public park space comes the difficulty in keeping that property maintained if existing parks are not being kept up as much as desired now.

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At this time, 11:20 p.m., Councilor Hardesty 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 stressed that why those additions are stated at the end of the resolution is because this is only a concept. A potential developer would take these concepts and incorporate them into a plan that is financially feasible for that developer and that final plan would have to come back to the city council.

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

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The meeting was adjourned at 11:25 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, February 4, 1999, 6:00 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors, Gilbert, Hales, Hardesty, Hogg, Prettner Solon, Swapinski and Vice President Rapaich -- 7

Absent: Councilor Edwards and President Keenan -- 2

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0204-01 Evensen Dodge, Inc., submitting: (a) Bid results; (b) Official statement pertaining to G.O. DECC improvement bonds, Series 1999A and G.O. tax and aid anticipation certificates of indebtedness of 1999. -- Received

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MOTIONS AND RESOLUTIONS

Resolution 99-0101, providing for the issuance, sale and delivery of \$9,000,000 general obligation tax and aid anticipation certificates of indebtedness of 1999 of the city of Duluth, Minnesota, and prescribing the terms thereof; creating a debt service fund therefor; and awarding the sale thereof; and Resolution 99-0121, providing for the issuance, sale and delivery of \$8,000,000 general obligation DECC [Duluth Entertainment Convention Center] improvement bonds, Series 1999A; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof, by Councilor Hogg, were introduced for discussion.

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

Kathy Kardell of Evensen Dodge reviewed the bid proposals and stated that the market is very favorable as evidenced by the low interest rate. She continued to say that Duluth's general obligation credit rating is still very high.

Resolution 99-0101 was adopted as follows:

BY COUNCILOR HOGG:

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

Section 1. Pursuant to authority contained in Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 475, the City is authorized to issue and sell general obligation tax and aid anticipation certificates of indebtedness in anticipation of collection of taxes and state aids. The City Council has, by Resolution No. 99-0026, adopted January 11, 1999, authorized the issuance and provided for the sale of \$9,000,000 General Obligation Tax and Aid Anticipation Certificates of Indebtedness of 1999 (the "Certificates") in anticipation of collection of taxes levied in the year 1998 for collection during the year 1999 and state aids receivable in 1999 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 First Albany Corporation, of New York, New York (the "Purchaser"), to purchase the Certificates at a cash price of \$9,008,383 plus accrued interest on the total principal amount from February 15, 1999, to the date of delivery and upon the terms and conditions hereafter specified in this Resolution. The City Council, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The Mayor and the City Clerk are hereby authorized and directed to execute on the part of the City a contract

for the sale of the Certificates in accordance with the Purchaser's proposal, and to acknowledge receipt of the good faith deposit given as security for the proposal.

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

Section 4. The Certificates to be issued hereunder shall be dated February 15, 1999, 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, 1999 (the "Maturity Date"). The Certificates shall not be subject to redemption prior to the Maturity Date. The Certificates shall bear interest at the rate of 3.10 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, 1999, whether or not a business day, at such owners' addresses shown on such bond registration records. Principal of each Certificate shall be payable in accordance with and on presentation and surrender of the Certificate to the Bond Registrar.

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

Section 6. A. In order to make the Certificates eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City has previously agreed to the applicable provisions set forth in the Blanket Issuer Letter of Representations which has been executed by the City and DTC (the "Representation Letter").

B. All of the Certificates shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Certificate registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon thereafter as possible thereafter to the account of Cede & Co. on the Maturity Date at the address indicated in or pursuant to Representation Letter.

C. Additional matters with respect to, among other things, notices, consents and approvals by Certificate holders and payments on the Certificates are set forth in the Representation Letter.

Section 7. The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Certificates and the registration of transfers of the Certificates entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar that may be appointed by the City Council. Upon surrender for transfer of any Certificate at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law

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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 1999

R-1 \$9,000,000

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
_____ %	December 31, 1999	February 15, 1999	

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REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: NINE MILLION DOLLARS

The City of Duluth, in the County of St. Louis, State of Minnesota (the "City"), acknowledges itself to be indebted and for value received hereby promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, together with interest thereon from the date of original issue specified above until paid at the annual interest rate specified above. Interest shall be computed on the basis of a 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, 1999, whether or not a business day, at such owner's address shown on said bond registration records. Payment of principal of the Certificates shall be made to the registered owner upon presentation and surrender of this Certificate to the Bond Registrar when due.

This Certificate is issued by the City in the aggregate amount of \$9,000,000, pursuant to the authority contained in Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 475, and pursuant to a resolution adopted by the City Council of the City on February 4, 1999 (the "Resolution").

It is hereby certified and recited that a sum of \$27,504,647 was the amount (i) embraced in the tax levies for the general fund (the "Fund") of the City levied in the year 1998 for collection during the year 1999, and (ii) the estimated amount of state aids receivable by the City for the Fund in the year 1999; 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.

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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 15th day of February, 1999.

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 1999, 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>
2/15/99	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

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

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

B. The City Council has appropriated \$300,000 to the Debt Service Account to be utilized in part to pay interest on the Certificates. The City Council hereby certifies that the General Fund Taxes are \$2,499,891, based on notices from the Minnesota Department of Revenue, and the State Aids are reasonably expected to be \$25,004,756.

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. 9397, adopted by the City Council on December 14, 1998 (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 1999 (the "General Fund State Aids") (collectively the General Fund Taxes and the General Fund State Aids are the "General Fund Taxes and State Aids"), to the extent necessary to repay the Certificates, shall be and are hereby at all times irrevocably pledged for the payment of principal and interest on the Certificates when due. If the General Fund Taxes and State Aids are insufficient to pay all principal and interest on the Certificates when due, the City Treasurer shall, nevertheless, provide sufficient monies from other funds of the City which are available for that purpose, and such other funds shall be reimbursed from said accounts when the balances therein are sufficient. It is recognized that the City's liability on the Certificates is not limited to the collection of said General Fund Taxes and State Aids, and the City Council covenants and agrees that it will levy upon all taxable property within the City of Duluth, and cause to be extended, assessed and collected, any additional taxes found necessary for full payment of the principal and interest, without limitation as to rate or amount.

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

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

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

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

Section 19. The City acknowledges that the Certificates are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds

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enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the obligations. To provide for the public availability of certain information relating to the Certificates and the security therefor and to permit underwriters of the Certificates to comply with the Rule, which will enhance the marketability of the Certificates, the Mayor and the Clerk are hereby authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the City Clerk.

Resolution 99-0101 was unanimously adopted.
 Approved February 4, 1999
 GARY L. DOTY, Mayor

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Resolution 99-0121 was adopted as follows:

BY COUNCILOR HOGG:

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

Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475 and all other enabling statutes, the City is authorized to issue its general obligation DECC improvement bonds to provide the funds necessary to match state, private and federal grants for projects within the City's boundaries, which bonds are to be payable from annual ad valorem taxes or other revenues of the City.

1.02 The City Council has, by Ordinance No. 9398 adopted on December 21, 1998, authorized the issuance and sale of General Obligation DECC Improvement Bonds of the City to finance a portion of the improvements to the Duluth Entertainment Convention Center (the Project), in an amount not to exceed \$8,000,000.

1.03 The City Council has solicited proposals for the sale of the Bonds in the principal amount of \$8,000,000 and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of Piper Jaffray, Inc. of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$7,936,706.15, plus accrued interest on the total principal amount from February 1, 1999, 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 February 1, 1999, 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	Interest Rate	Year	Amount	Interest Rate
2000	\$400,000 Exhibit A	2008		\$545,000 Exhibit A
2001	415,000 Exhibit A	2009		565,000 Exhibit A

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2002	430,000	2010		590,000
2003	445,000	2011		615,000
2004	465,000	2012		645,000
2005	480,000	2013		675,000
2006	500,000	2014		710,000
2007	520,000			

2.02 The Bonds maturing in the years 2000 through 2008 shall not be subject to redemption and prepayment before maturity, but those maturing in the year 2009 and subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2008, and on any date thereafter, in whole or in part, in inverse order of maturity years and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to each registered owner of a Bond to be redeemed, at the owner's address shown on the registration books of the City, and published notice of redemption shall be given, if required by law, in the manner provided by Minnesota Statutes, Chapter 475, but the failure to give such mailed notice, or defect in any notice so mailed, shall not affect the validity of the proceedings for the redemption of any Bond not affected by such failure or defect. If applicable, notice shall be given in accordance with the terms of the Representation Letter described in Section 2.06A hereof.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 1999. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the City Clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for

the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 A. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City has previously agreed to the applicable provisions set forth in the Blanket Issuer Letter of Representations which has been executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. Additional matters with respect to, among other things, notices, consents and approvals by bond holders and payments on the Bonds are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH
GENERAL OBLIGATION DECC IMPROVEMENT BOND, SERIES 1999A

R-____ \$_____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	February 1, __	February 1, 1999	

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 February 1, 1999, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 1999. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$8,000,000, 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 February 4, 1999 (the "Resolution"), and is issued for the purpose of financing a portion of the improvements to the Duluth Entertainment Convention Center and for payment of part of the interest cost of said bond issue. The principal hereof and interest hereon are payable primarily from sales tax revenues 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 2000 through 2008 are not subject to redemption before maturity, but those maturing in the year 2009 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2008, and on any date thereafter upon 30 days' notice, in whole or in part, in inverse order of maturity years and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed, and, if required by law, published notice of redemption will be given in the manner provided by Minnesota Statutes, Chapter 475. No defect or failure in such mailed notice shall affect the validity of the proceedings for redemption of any Bond not affected by such failure or defect. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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>
2/___/99	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

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

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

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

Dated: _____.

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

Signature Guaranteed:

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

Section 3. Covenants, Accounts and Representations.

3.01 The City hereby creates a separate account entitled the "DECC Improvement Account" within the City's Capital Improvement Project Fund (Fund 450) to which there shall be credited the proceeds for the Bonds, less accrued interest paid by the Purchaser, together with any additional funds which may be available and are appropriated for the payment of costs of the Project. This Account shall be used only to pay or reimburse the costs for improvements to the Duluth Entertainment Convention Center and costs of issuance of the Bonds, as such payments become due.

3.02 A. The City imposes certain sales taxes pursuant to Minnesota Laws 1980, Chapter 511, Section 1, Subdivision 2 and Sections 2 and 3, as amended, and Sections 42A-2(b) and 42A-49 of the Duluth City Code (the Sales Tax) on certain sales of food and beverages and lodging within the City. The Sales Tax on certain sales of food and beverages is 1½% on gross receipts described in such sections and the Sales Tax on certain lodging is 2½% on gross receipts described in such sections. (Revenues received from ½% of the tax authorized by Sections 42A-2(b) and 42A-49 are herein referred to as the 1/2% Sales Tax.) Pursuant to Sections 42A-2(b) and 42A-49, the sales tax revenues from the 1/2% Sales Tax shall be used to pay debt services on bonds to finance the expansion of the DECC.

B. The City has created Account No. 1497 (the 1/2% Sales Tax Account) within Fund 258, which is the City's fund to account for revenues generated by the Sales Tax. The City shall place all sales tax receipts from the ½% Sales Tax, when collected, into the ½% Sales Tax Account. Sums from time to time in this ½% Sales Tax Account are hereby pledged and appropriated to pay the principal of and interest on the Bonds when due.

3.03 A separate debt service account is hereby created and designated as the "G.O. DECC Improvement Bonds, Series 1999A Debt Service Account" (the "Debt Service Fund") within the City's Debt Service Fund. There shall be transferred (i) first from the ½% Sales Tax Account to the Debt Service Account amounts of the ½% Sales Tax and (ii) the balance needed, if any, from additional revenues of the Sales Tax, in amounts 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 City Treasurer, in accordance with policies established by the City Council. 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 Sales Tax revenues. Into the Debt Service Fund shall be credited the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds.

3.04 It is estimated that the Sales Tax 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. The City reserves the right to issue additional bonds and pledge Sales Tax revenues on a parity with the pledge herein made.

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 the DECC Improvement Capital Project Fund, the ½% Sales Tax Account and in the Debt Service Fund may, in the discretion of the City Treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 4. Tax Covenants.

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

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Fund and the 1/2% Sales Tax 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. The Finance Director is authorized to execute an escrow agreement on behalf of the City with the Bond Registrar to assure compliance with federal arbitrage regulations on investment of the ½% Sales Tax Account.

B. In addition, the proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such

purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the Rule). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the Mayor and the Clerk are hereby authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the City Clerk.

Section 6. Agreement with Duluth Entertainment and Convention Center Authority. 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 agreement with the Duluth Entertainment and Convention Center Authority (the DECC Agreement). The execution and delivery of the DECC 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.

Resolution 99-0121 was unanimously adopted.

Approved February 4, 1999

GARY L. DOTY, Mayor

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The meeting was adjourned at 6:15 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 8, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Hogg, Swapinski and Chairperson Prettner Solon -- 7

Absent: Councilor Rapaich and President Keenan -- 2

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The minutes of council meetings held on November 9 and November 19, 1998, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0208-01 Advanced Awning Design submitting application for concurrent use permit to construct an awning for Canal Park Antique Mall located in 310 South Lake Avenue right-of-way. -- Planning commission

99-0208-02 Arrowhead Equipment Company petitioning for vacation of a portion of utility easement in Lot 1, Block 3, Twin Ports Truck Center Division. -- Assessor

99-0208-03 Sandra L. Conner petitioning for vacation of utility easement on Lots 1 and 10, Gordon Park Division. -- Assessor

99-0208-04 St. John's Parish petitioning for vacation of Allendale Avenue bordering Lots 13-17, Block 4, Colman Park Addition of Duluth for approximately 320 feet south from the intersection with Hubbel Street to the intersection with Woodland Avenue. -- Assessor

99-0208-05 Simon Properties Group, et al. (six signatures), by Joseph V. Ferguson, attorney, submitting remonstrance petition regarding the construction of a 16 inch watermain in the Central Entrance Miller Hill Mall area. -- Assessor

99-0208-06 Spirit Bay Development Company, et al. (31 signatures), submitting petition to vacate pedestrian easement, from Lot 3 and 5, Block 4, Spirit Cove Division. -- Assessor

99-0208-07 Lillian Stocke submitting:

(a) Petition to construct a water main, gas main and sanitary sewer main in Creekside Circle from Appleridge Drive to 1,094 feet easterly through the cul-de-sac. -- Assessor

(b) Waiver agreement regarding construction of water main, gas main and sanitary sewer main in Creekside Circle from Appleridge Drive to 1,094 feet easterly through the cul-de-sac. -- Engineering

99-0208-29 The following submitting communications regarding the Minnesota Council on Compulsive Gambling's youth programs (99-0086R, 99-0095R and 99-0096R): (a) Division on Addictions, Harvard Medical School; (b) Head of the Lakes Juvenile Assessment Center. -- Received

99-0208-28 The following submitting communications regarding proposed HarborPlace strategic development plan (99-0118R and 99-0129R): (a) John Bray; (b) Pauline Fineout; (c) Jim Larson; (d) Peter H. Sneve. -- Received

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REPORTS OF OFFICERS

99-0208-09 Assessor submitting letters of sufficiency pertaining to petitions to:

(a) Construct a permanent street improvement Creekside Circle from Appleridge Drive to 1,094 feet easterly through the cul-de-sac;

(b) Request for changing the wording on two utility and pedestrian easements in Spirit Cove development;

(c) Vacate Allendale Avenue bordering Lots 13-17, Block 4, Colman Park Addition of Duluth for a distance of approximately 320 feet south from the intersection with Hubbell Street;

(d) Vacate a utility easement on Lots 1 and 10 of Gordon Park Division;

(e) Vacate a portion of the utility easement in Lot 1, Block 3, Twin Ports Truck Center Division. -- Received

99-0208-08 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling licenses (bingo) from Order of AHEPA Duluth Chapter No. 267 on March 26, 1999, and November 21, 1999, at Holiday Inn. -- Received

99-0208-10 Community development and housing division submitting HRA housing rehabilitation report for December, 1998. -- Received

99-0208-11 Engineering division submitting monthly project status report of January 1, 1999. -- Received

99-0208-12 Parks and recreation department director submitting Lake Superior zoological society minutes of December 8, 1998, meeting. -- Received

99-0208-13 Purchasing agent submitting emergency purchase orders awarded to: (a) Kraemer Construction, \$17,440 for Tischer Creek for rip-rap and all timber blocks supporting pipe; (b) Waterous Company, \$7,920 for a replacement fire pump. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-0208-14 Alcoholic beverage board minutes of December 9, 1998, meeting. -- Received

99-0208-15 Board of zoning appeals minutes of November 24, 1998, meeting. -- Received

99-0208-16 Civil service board minutes of December 1, 1998, meeting. -- Received

99-0208-21 Housing and redevelopment authority minutes of December 29, 1998, meeting. -- Received

99-0208-17 Lawful gambling commission minutes of December 8, 1998, meeting. -- Received

99-0208-18 Sanitary sewer board of WLSSD minutes of January 4, 1999, meeting. -- Received

99-0208-19 Special assessment board: (a) Minutes of January 11, 1999, meeting; (b) Report, findings and recommendations regarding proposed sanitary sewer in Grand Avenue Place from Gogebic Street to 330 feet southwesterly. -- Received

99-0208-20 Technical design advisory committee for DWMX-D minutes of: (a) December 17, 1998; (b) January 6, 1999, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Tom Allnew expressed his concern over the use of tax increment financing.

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K. Lewis noted that there are city sidewalks on First Street with dangerous ice build ups that need attention before there are serious injuries.

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RESOLUTION TABLED

Councilor Gilbert moved to remove Resolution 99-0055, awarding contract to J & D Enterprises, Inc., for thawing water lines, in the amount of \$10,000, from the table, which motion was seconded and unanimously carried.

Resolution 99-0055 was adopted as follows:

BY COUNCILOR GILBERT:

RESOLVED, that J & D Enterprises, Inc., be and hereby is awarded a contract for furnishing thawing service for water 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 0542, Object 5319.

Resolution 99-0055 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

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BY COUNCILOR EDWARDS:

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

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

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

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

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

Resolution 99-0102 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Duluth Window Cleaning Company be and hereby is awarded a contract for furnishing window washing services for various city buildings for the property management division and water and gas department in accordance with specifications on its low specification bid of an estimated amount of \$6,000, terms net 30, FOB job sites, payable out of various funds, dept./agencies, organizations and objects.

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

Resolution 99-0105 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

RESOLVED, that Denny's Lawn and Garden be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Steiner and Ariens equipment as needed during 1999 for the fleet services division, for an estimated total of \$8,000, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 99-0106 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Maney International be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Navistar International trucks as needed during 1999 for the fleet services division, for an estimated total of \$20,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 99-0110 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Lakeland Ford, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Ford equipment for the fleet services division as needed during 1999, estimated to total \$8,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 99-0111 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that the administrative assistant is hereby authorized to execute an agreement with Lake Superior College relating to a work-study program, which agreement is on file in the office of the city clerk as Public Document No. 99-0208-22.

Resolution 99-0117 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized a contract with Hewlett Packard Company for a renewal of a hardware and software maintenance agreement at a cost of approximately \$8,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5309.

Resolution 99-0123 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

DULUTH HOUSING COMMISSION

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Dean Casperson (local housing) for a term expiring November 8, 1999.
Kay Slack (at large) for a term expiring November 8, 1999.
Robert Reichert (at large) for a term expiring November 8, 2000.
Marsha Blackburn (local lending) for a term expiring November 8, 2000.
Janet Carter (HRA) for a term expiring November 8, 2001.
Marcia Hales (council) for a term expiring November 8, 2001.
Frank Jewell (Low Income Housing Consortium) for a term expiring November 8, 2001.
Resolution 99-0062 was unanimously adopted.
Approved February 8, 1999
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 Arrowhead Security Systems, Inc./Grubb & Scinocca, L.L.C.; 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 Arrowhead Security Systems, Inc./Grubb & Scinocca, L.L.C.

Resolution 99-0033 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

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

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into the Minnesota city participation program application-commitment agreement with the Minnesota housing finance agency related to the allocation and sale of qualified mortgage bonds for the benefit of low and moderate income home buyers in the city, which agreement is substantially in the form of that on file in the office of the city clerk as Public Document No. 99-0208-23.

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 \$30,000, 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 \$600, both of said amounts to be payable from General Fund 100, Agency 015, Org. 2020, Obj. 5441.

Resolution 99-0099 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

WHEREAS, at the request of the planning division, RLK-Kuusisto, LTD submitted a proposal to perform a study of potential development of the Rice Lake Road/Arrowhead Road area, which study was anticipated to cost \$25,000; and

WHEREAS, the city council passed a resolution of intent to support such a study on December 21, 1998; and

WHEREAS, the Duluth economic development authority has authorized the expenditure of a matching amount (\$12,500) for this study; and

WHEREAS, the study would provide guidance for appropriate development of this area; and

WHEREAS, this study will provide a model for analysis of land use in connection with the comprehensive planning process, which is currently underway.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby indicates its support for a study of a 2,000 acre area bounded by Rice Lake Road, Marble Street (extended east and west), Haines Road and Blackman Avenue, which study will be conducted under contract with the Duluth economic development authority (DEDA) and provide guidance for the development of this area.

FURTHER RESOLVED, that the proper city officials are hereby authorized to transfer \$12,500 to DEDA to pay for 1/2 of the estimated cost thereof, said sum to be transferred from Fund 100, Agency 020, Org. 1202.

Resolution 99-0120 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

WHEREAS, the city has received a commitment from the Duluth Area Family Services Collaborative to receive a time study funding grant in the amount of \$27,500; and

WHEREAS, said grant shall be used to pay for part time computer lab instructors and recreation staff at Lower Chester and Endion community centers in 1999.

RESOLVED, that the proper city officers execute the agreement (Public Document No. 99-0208-26) and upon receipt of such reimbursement in the amount of \$27,500 from the governing board of the family services collaborative that such funds be deposited into parks and recreation Account #100-400-1812.

Resolution 99-0077 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers hereby authorize Amendment #1 to Agreement #18173 with Architects IV, for the sum of not to exceed \$10,530, from Capital Fund 450, Obj. C907, for providing certain additional professional architectural services to the city of Duluth in connection with Wade Stadium Modifications, 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. 99-0208-24.

Resolution 99-0116 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that Commercial Pool and Spa Supplies be and hereby is awarded a contract for furnishing and delivering approximately 7,300 gallons of various chemicals for water control for the Lake Superior zoo in accordance with specifications on its low specification bid of \$6,682.88, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 400, Organization 1814, Object 5229.

Resolution 99-0125 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR 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 1999 state legislative program, which agreement is on file in the office of the city clerk as Public Document No. 99-0208-25 at a cost to the city of not to exceed \$42,230, which shall be payable from the General Fund 100-015-1510-5312.

Resolution 99-0122 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Minnegasco, Inc., be and hereby is awarded a contract for furnishing and delivering 6,400 pounds of natural gas odorant for the gas division in accordance with specifications on its low specification bid of \$15,002.50, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0541, Object 5210.

Resolution 99-0107 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Minnesota Blueprint be and hereby is awarded a contract for furnishing and delivering one Xerox Model 3030 engineering copier for the water and gas department in accordance with specifications on its low specification bid of \$8,198.32, terms net 30, FOB destination, \$4,099.16 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5580 and \$4,099.16 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 99-0108 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Aspen Equipment be and hereby is awarded a contract for furnishing and delivering two service bodies for two 1998 Ford 3/4-ton pickup trucks for the water and gas department in accordance with specifications on its low specification bid of \$11,219.78, terms net 30, FOB shipping point, \$5,609.89 payable out of Water Fund 510, Dept./Agency 900,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Organization 0505, Object 5580 and \$5,609.89 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 99-0112 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the Western Lake Superior Sanitary District by and hereby is awarded a contract for furnishing ash and refuse disposal as required during 1999 for the Steam District #1 in accordance with current approved W.L.S.S.D.'s disposal rates, annual expenditures to total approximately \$95,399, terms net 30, FOB disposal sites, payable out of Steam District #1 Fund 540, Dept./Agency 920, Organization 1440, Object 5388.

Resolution 99-0114 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Equipment Rental Company be and hereby is awarded a contract for furnishing and delivering seven weathergard roof vents, partitions, racks and cabinet insulation for seven vans for the water and gas department in accordance with specifications on its low specification bid of \$23,893.28, terms net 30, FOB destination, \$11,946.64 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5580 and \$11,946.64 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 99-0115 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth desires to complete a study; and

WHEREAS, the city desires to hire a consulting engineer to provide the services required to update a 1996 study for the expansion of natural gas supply to the city of Duluth distribution system; and

WHEREAS, U.S. Gas Services, Inc., has submitted a proposal for consulting services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with U.S. Gas Services, Inc., to provide the city with such consulting services.

BE IT FURTHER RESOLVED, that the cost of said consulting services, estimated at \$15,000, will be payable from the Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 99-0127 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth desires to complete an assessment and project plan; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

WHEREAS, the city desires to hire a consulting engineer to provide the consulting services required for geographical information system (GIS); and

WHEREAS, Plan Sight has submitted a proposal for professional 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 Plan Sight to provide the city with such consulting services.

BE IT FURTHER RESOLVED, that the cost of said consulting services, not to exceed at \$18,000, \$4,500 will be payable from the Water Fund 510, Dept./Agency 900, Organization 0500, Object 5319; \$4,500 will be payable from the Gas Fund 520, Dept./Agency 900, Organization 0500, Object 5319; \$4,500 will be payable from the Sewer Fund 530, Dept./Agency 500, Organization 0500, Object 5319; and \$4,500 will be payable from the Storm Water Fund 535, Dept./Agency 500, Organization 0585, Object 5319.

Resolution 99-0130 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, by the Resolution of Intent numbered 99-0008, the council did request the administration to prepare plans and specifications for the construction of a sanitary sewer in Grand Avenue Place from Gogebic Street to 330 feet southwesterly (City Job No. 9158SA98); and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; proper notice has been sent to the benefiting property owners; the special assessment board has conducted a hearing to meet and hear any person affected by the proposed improvement or assessment; the special assessment board has submitted its report to this council pursuant to Section 45-79, Duluth City Code of 1959; and the said board, at the direction of the mayor, has furnished this council with information as required by Section 45-80 of the Duluth City Code of 1959.

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$16,000, payable from the Special Assessment Fund 810, Agency 038, Organization 5314, 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 No. 99-0208-19(b); and which description is hereby incorporated herein by reference to Public Document No. 99-0208-19(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 99-0100 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

low specification bid of an estimated amount of \$15,000, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5401.

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

Resolution 99-0103 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Northland Bridge, Inc., be and hereby is awarded a contract for the construction of North Shore erosion control structures on Congdon Boulevard between Brighton Beach and the Duluth city limits for the engineering division in accordance with specifications on its low specification bid of \$599,804.40, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2166, Object 5530; to be reimbursed 80 percent ISTEAF funds and 20 percent municipal state aid funds.

Resolution 99-0104 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Vogel Paint and Wax Company, Inc., be and hereby is awarded a contract for furnishing and delivering 5,275 gallons of yellow traffic marking paint and white traffic marking paint for the traffic operations division in accordance with specifications on its low specification bid of \$27,827.16, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5226.

Resolution 99-0109 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; the special assessment board has conducted a meeting with the owner of the property being assessed; the special assessment board has submitted its report to this council, pursuant to Section 45-79, Duluth City Code of 1959; and the said board, at the direction of the mayor, has furnished this council with information as required by Section 45-80 of the Duluth City Code of 1959.

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$300,000 payable from the Special Assessment Fund 810, Agency 038, Organization 5315, Object 5530; that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted, which land and premises are described in the report of the special assessment board, and which report is on file in the office of the city clerk as Public Document No. 99-0208-19, and which description is hereby incorporated herein by reference to said Public Document No. 99-0208-19; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all requirements of Section 60 of the Charter.

Resolution 99-0119 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved February 8, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Potters Industries, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 40,000 pounds of glass beads for the traffic operations division in accordance with specifications on its low specification bid of \$7,710.60, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5226.

Resolution 99-0124 was unanimously adopted.

Approved February 8, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with RREM an MSA division, to provide consulting services in connection with Duluth Dumpsite #1, which agreement is on file in the office of the city clerk as Public Document No. 99-0208-27, at a cost to the city of not to exceed \$56,134, which shall be payable from the self insurance fund.

Resolution 99-0128 was unanimously adopted.

Approved February 8, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

BE IT RESOLVED, that the proper city officials are authorized to make payments to Donna Jourdain at times and in the amounts required by law as a result of an automobile-pedestrian accident occurring December 3, 1998; payment from self insurance fund.

Resolution 99-0045 was unanimously adopted.

Approved February 8, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the proper city officials are authorized to pay to Andre Guite and his attorney, Thomas Skare, \$9,000 in full and final settlement of the claim which arose out of the arrest of his son David Guite, occurring on October 27, 1994; payment to be made from the self insurance fund.

Resolution 99-0098 was unanimously adopted.

Approved February 8, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Motorola Communications and Electronics be and hereby is awarded a contract for furnishing and delivering ten portable radios and accessories for the police department in accordance with specifications on its low specification bid of \$6,999.50, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 015, Organization 2090, Object 5241.

Resolution 99-0126 was unanimously adopted.

Approved February 8, 1999
GARY L. DOTY, Mayor

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The following resolutions were also considered:

BY COUNCILOR EDWARDS:

RESOLVED, that the city is hereby authorized to contract with Gamblers Intervention Services for the operation of an outreach gambling program during 1999, at a cost to the city of \$90,000, which shall be payable from General Fund 015-1514 gambling administration.

Resolution 99-0086 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that the city is hereby authorized to contract with the Minnesota Council on Compulsive Gambling, Inc., for operation of a compulsive gambling prevention and education program during 1999, at a cost to the city of \$116,139, which shall be payable from General Fund 015-1514 gambling administration.

Resolution 99-0095 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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Resolution 99-0096, by Councilor Edwards, authorizing a contract with the Minnesota Council on Compulsive Gambling, Inc., for the operation of a compulsive gambling assessment and prevention program for at-risk youth during 1999, at a cost to the city of \$31,957, was introduced for discussion.

Councilor Swapinski reviewed the background relative to this resolution. He noted that part of the program's guidelines were to have an assessment on its effectiveness and that that has not been done, and that, to this date, not one person has been put in this program.

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

Betty George, director of the Minnesota Council on Compulsive Gambling, noted that they are in the development stage, that is, meeting with educators and providers, for this particular program and noted the letter from Kari Becken, program coordinator for Head of the Lakes Juvenile Assessment Center (Public Document No. 99-0208-29(b)). She stated that there has been work done in preparing for the fruition of this program. Ms. George noted that the *Nickelodeon* cable channel is coming to Duluth to interview the junior editor of the council's on-line magazine. She stated that this program is being watched across the country as a model.

To Councilor Hardesty's questions, Ms. George reviewed at great length their prior involvement with the Harvard Medical Center. Ms. George felt that it is likely that within a couple of years each middle school, and also the juvenile assessment center, would probably make six to eight referrals to this program. She felt confident that next year when this reviewed, there would be a significant amount of numbers and information to evaluate the program.

Councilor Swapinski stated that he was aware, based on the screening of the 260 residents, to date, that have been processed at the juvenile center, there has been no indication of a gambling problem. He questioned the need for this program, based on that information.

Ms. George noted statistics from surveys done in Minnesota that there is a significant amount of gambling done by our youth. She added that more time is needed to get this program going and have evaluations done by next year that will reflect the need for this program.

Councilor Hogg suggested that if this resolution passes, the administration meet with this agency to establish objective criteria to see if the program is worth the dollars spent.

Resolution 99-0096 was adopted as follows:

BY COUNCILOR EDWARDS:

RESOLVED, that the city is hereby authorized to contract with the Minnesota Council on Compulsive Gambling, Inc., for operation of a compulsive gambling assessment and prevention program for at-risk youth during 1999, at a cost to the city of \$31,957, which shall be payable from General Fund 015-1514 gambling administration.

Resolution 99-0096 was unanimously adopted.

Approved February 8, 1999

GARY L. DOTY, Mayor

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Resolution 99-0129, by councilors Gilbert and Swapinski, approving the concept of the Bayfront Park development plan prepared by the Bayfront Vision Group and requesting review of the plan by city and DEDA staff, was introduced for discussion.

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

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Resolution 99-0113, by Councilor Swapinski, authorizing an agreement with Camp, Dresser & McKee for a study of rate adjustment factors for the stormwater utility for a consideration of not to exceed \$8,500, was introduced for discussion.

Councilor Swapinski reviewed the background of the stormwater utility and the nature of this resolution.

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

Robert Reichert, representing the Arrowhead Multihousing Association, noted the association's support for the stormwater utility, but added that their organization requests equity for the multihousing property. He noted that this resolution would have a study done to address that issue. Mr. Reichert further pointed out that less than one percent of the impervious area in the city is multi-family property, but under the current proposal that group would be expected to pay 18 percent of the utility costs.

Michael Bolen, economic director for the Duluth Area Chamber of Commerce, noted their concern regarding the potential inequity that might come about with the proposed rates structure. He noted that two existing buildings with the same square footage would be paying a different rate because of different uses.

Todd Anderson noted that he is being assessed for the stormwater utility, but that the city sewer system does not come to his property. He stated that the poor quality of the road work done by the city and the county have caused water runoff to go on to his property and flood his house.

Councilor Gilbert stated the need to achieve a fairness to the citizens, such as the ones in apartments, for the assessment for the stormwater utility and also for the citizens that are not connected to the stormwater system.

Councilor Hogg requested that the contract with Camp, Dresser & McKee specifically address the concerns expressed by the council and the speakers this evening.

To Councilor Hogg's questioning, City Attorney Dinan stated that those areas of concern might not be addressed with the contract that is before them now, and that inquiry to the company should be done, which would include a change to the wording of the contract.

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Hogg and Chairperson Prettner
Solon -- 6
Nays: Councilor Swapinski -- 1
Absent: Councilor Rapaich and President Keenan -- 2

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR PRETTNER SOLON

99-001 - AN ORDINANCE PERTAINING TO THE REGULATION OF TOBACCO; AMENDING SECTIONS 11-2, 11-5 AND 11-10 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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BY COUNCILOR SWAPINSKI

99-002 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CONSTRUCTION AND PERMANENT SANITARY SEWER EASEMENTS OVER LOTS 1 AND 2, BLOCK 17, ONEOTA, TO THE WESTERN LAKE SUPERIOR SANITARY DISTRICT.

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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, February 22, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: Councilor Hales -- 1

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The minutes of council meetings held on November 23, December 7 and 14, 1998, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0222-01 William Gerard, et al. (two signatures) submitting petition to vacate a portion of Second Avenue West which lies westerly of Lot 32. -- Assessor

99-0222-02 Lyric Block Development Corporation submitting petition to vacate a portion of the pedestrian walkway at the Holiday Mall. -- Assessor

99-0222-03 Ella L. Nielsen submitting remonstrance petition regarding city sewer at 9134 Grand Avenue Place. -- Assessor

99-0222-14 Lezlie Hahn Oachs, et al. (18 signatures) submitting appeal of planning commission denial to close Hawthorne Road access to Lakeview Avenue. -- Committee 2 (planning)

99-0222-04 The following submitting communications regarding the proposed amendment to the tobacco ordinance (99-001-O): (a) Duluth Tobacco & Gift ; (b) Mark R. Eckman; (c) Spirit Bottle. -- Received

99-0222-22 The following submitting communications regarding the closure of Hawthorne Road access to Lakeview Avenue (99-0164R): (a) Rachel Moseley; (b) Lezlie Hahn Oachs; (c) Dolly Schnell. -- Received

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REPORTS OF OFFICERS

99-0222-05 Assessor submitting:

(a) Letter for confirmation of the assessment rolls levied to defray the assessable portion of contracts for the 1998 street improvement program and permanent alleys. -- Clerk

(b) Letter of sufficiency to vacate that portion of Second Avenue West which lies westerly of Duluth Proper Third Division, Lot 32, Block 114. -- Received

99-0222-06 Business development division submitting report of financial assistance extended to businesses in 1998, pursuant to Ordinance 9359. -- Received

99-0222-07 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses from: (a) St. James Church (raffle) on May 1, 1999; (b) St. Margaret Mary Church (bingo) on March 25, 1999; (c) St. Mary's Medical Center (raffle) on April 16, 1999. -- Received

99-0222-08 Engineering division submitting monthly project status report of February 1, 1999. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-0222-09 Planning commission submitting copy of denial of closure of Lakeview Avenue at Hawthorne Road. -- Received

99-0222-10 Sanitary sewer board of the WLSSD minutes of January 25, 1999, meeting. -- Received

99-0222-11 Seaway Port authority of Duluth minutes of December 10, 1998, meeting. Received

99-0222-12 Spirit Mountain recreation area authority minutes of: (a) January 27, 1997; (b) February 24, 1997; (c) March 31, 1997; (d) April 28, 1997; (e) May 19, 1997; (f) June 2, 1997; (g) June 23, 1997; (h) July 28, 1997; (i) August 25, 1997; (j) September 22, 1997; (k) September 29, 1997; (l) October 27, 1997; (m) November 25, 1997; (n) December 11, 1997, (o) December 29, 1997; (p) January 28, 1998; (q) February 23, 1998; (r) March 23, 1998; (s) April 9, 1998; (t) April 27, 1998; (u) June 5, 1998; (v) July 7, 1998; (w) August 10, 1998; (x) August 31, 1998; (y) September 30, 1998; (z) October 26, 1998; (aa) November 23, 1998; (bb) December 21, 1998, meetings. -- Received

99-0222-13 Tree commission minutes of January 12, 1999, meeting. -- Received

- - -

RESOLUTIONS TABLED

Councilor Prettner Solon moved to remove Resolution 99-0049, authorizing DEDA to condemn certain property for the Oneota III redevelopment project, 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.

Ralph Anderson stated that he wants to move but he wants to find a suitable place first and does not like the pressure the city is putting on the residents. He continued by saying that although the city has given them several houses to look at, the houses have either sold very quickly or they have not been suitable for their needs.

Councilor Prettner Solon reviewed that this process has been going on for at least three years and that the residents will be given three to four months once the condemnation is served to find a place to live. She reviewed that the property is not suitable for development now as it is irregularly shaped with poor access into the property owned by the Duluth economic development authority (DEDA).

Councilor Edwards questioned the need for taking all of the property on the west side of the block and that, since Mr. Anderson is willing to move, the city should give him more time to move.

Councilor Gilbert stated that a person should not be forced out of his house and he felt that public purpose is not being served by this eminent domain.

Resolution 99-0049 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the city council of the city of Duluth hereby makes the following findings:

(a) That the acquisition of the below described property is necessary to the proper redevelopment of the Oneota III Project;

(b) That acquisition of the below described property without the use of the powers of eminent domain is not practically feasible.

FURTHER RESOLVED, that pursuant to Resolution 89-0323, the Duluth economic development authority is hereby authorized to exercise the power of eminent domain as authorized in Minnesota Statutes 469.101, Subdivision 4, to acquire those parcels of property in St. Louis County, Minnesota, generally described as follows: Parcel A, The northerly 107 feet of Lots 1, 2 and 3, Block 6, Harrington's Addition to Duluth; Parcel B, The southerly 25 feet of Lots 1, 2 and 3, Block 6 and the northerly 1/2 of Lots 1 and 2 and all of Lot 3, Block 7, all in Harrington's Addition to Duluth.

FURTHER RESOLVED, that said authority is hereby directed to acquire possession of said property as expeditiously as possible pursuant to the provisions of Minnesota Statutes Chapter 117.

FURTHER RESOLVED, that said authority is hereby authorized to pay the costs of acquisition of said property as established pursuant to Minnesota Statutes Chapter 117 and associated relocation costs, if any, and to pay all costs associated with said acquisition and relocation proceeding.

Resolution 99-0049 was adopted upon the following vote:

Yeas: Councilors Hardesty, Hogg, Prettner Solon, Rapaich and President Keenan -- 5

Nays: Councilors Edwards, Gilbert and Swapinski -- 3

Absent: Councilor Hales -- 1

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

Councilor Prettner Solon moved to remove Resolution 99-0118, conditionally approving the HarborPlace strategic development 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.

Karen Lewis voiced her support of keeping Bayfront as open space without building any new stores as there are many empty stores around the city. She urged the councilors to work on ways to develop business so the local people will have permanent jobs.

Councilor Prettner Solon moved to retable the resolution, which motion was seconded and unanimously carried.

- - -

Councilor Swapinski moved to remove Resolution 99-0113, authorizing an agreement with Camp, Dresser & Mckee for a study of rate adjustment factors for the stormwater utility for a consideration of not to exceed \$8,500, from the table, which motion was seconded and unanimously carried.

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

Lisa Crosby, Lynn Youngblom, Clayton Treiber, Dane Youngblom, and Jerome Carlson spoke in opposition to the current stormwater utility rates for the following reasons: as residents of rural Duluth they do not feel that the stormwater system should apply to them as they already have a well and septic system and do not use the stormwater system; the stormwater taskforce has ignored the speakers from rural Duluth and proposed only a solution of better education for these citizens; to force rural people to pay for something they are not using is ridiculous and unfair; the county is the only one that maintains the road in front of the house and receives no aid from any city maintenance personnel, so why is the city charging for services not being used by rural Duluthians.

John Boynton stated he lives on a county state aid road in Gary-New Duluth and offered a compromise for rural Duluthians of paying a third of the amount paid by homeowners who use city services.

Councilor Swapinski moved to retable the resolution, which motion was seconded and unanimously carried.

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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

Councilor Hogg moved to remove Resolution 99-0141, awarding contract to Cushman Motor Company for one rotary mower, in the amount of \$33,999.06, from the consent agenda and refer it back to the administration, which motion was seconded and unanimously carried.

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

BY COUNCILOR EDWARDS:

RESOLVED, that Road Rescue, Inc., be and hereby is awarded a contract for furnishing and delivering annual requirements for emergency lighting systems, flashers, strobe lights, light-bars, parts and repairs for the fleet services division in accordance with specifications 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 99-0137 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Superior Ford, Inc., be and hereby is awarded a contract for furnishing and delivering eight patrol cars and accessories for the police department in accordance with specifications on its low specification bid of \$164,531, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2009, Object V902.

Resolution 99-0138 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that C.P. Internet be and hereby is awarded a contract for furnishing T-1 internet maintenance and support services for the data processing division in accordance with specifications on its low specification bid of \$6,360, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5319.

Resolution 99-0139 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Falls Automotive, Inc., be and hereby is awarded a contract for furnishing and delivering three Dodge Durango vehicles for the police department in accordance with specifications on its low specification bid of \$75,693, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2009, Object V904.

Resolution 99-0140 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

division as needed during 1998, for an estimated total of \$20,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 99-0143 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that M.T.I. Distributing, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. repair parts for Toro industrial turf equipment for the fleet services division in accordance with specifications on its low specification bid of \$6,000, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

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

Resolution 99-0145 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Andren's, Inc., be and hereby is awarded a contract for furnishing and delivering 1999 annual miscellaneous paints and supplies as needed for the various departments/divisions in accordance with specifications on its low specification bid of \$16,800, terms net 30, FOB pick up, payable out of various funds, dept./agencies, organizations and objects.

Resolution 99-0146 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Maney International, Inc., be and hereby is awarded a contract for furnishing and delivering a replacement engine for the aerial basket truck for the fleet services division in accordance with specifications on its low specification bid of \$8,493.38, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 99-0151 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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. Multiple Sclerosis	VFW Post #6320	February 4, 1999
	Curly's Bar	February 4, 1999

Resolution 99-0154 was unanimously adopted.
Approved February 22, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

CITYWIDE CITIZEN ADVISORY COMMITTEE

Deanne M. Westermann (West Duluth) for a term expiring March 1, 2002, replacing Joseph Grant who resigned.

Resolution 99-0135 was unanimously adopted.
Approved February 22, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

DULUTH HOUSING COMMISSION

Debra Branley (CDBG neighborhood) for a term expiring November 8, 2000, replacing Maureen Booth.

Resolution 99-0136 was unanimously adopted.
Approved February 22, 1999
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 joint powers agreement substantially in the form of the copy on file in the office of the city clerk as Public Document No. 99-0222-15 with the Minnesota housing finance agency relating to the performance of certain low-income housing tax credit allocation and compliance monitoring functions, as set forth in the agreement.

Resolution 99-0152 was unanimously adopted.
Approved February 22, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a ten foot wide utility easement legally described as: the easement along the rear five feet of Lots 1 and 10 of Gordon 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

WHEREAS, the city planning commission approved unanimously the vacation of the ten foot wide utility easement petition at its February 9, 1999, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of ten foot wide utility easement described above, and as more particularly described on Public Document No. 99-0222-16.

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 ten foot wide utility easement to be vacated.

Resolution 99-0163 was unanimously adopted.

Approved February 22, 1999

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 Info Tel Communications L.L.C.; 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 Info Tel Communications, L.L.C.

Resolution 99-0167 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that Animal Spectrum, Inc., be and hereby is awarded a contract for furnishing and delivering 776 cases/bags of various zoo animal food for the Lake Superior zoo in accordance with specifications on its low specification bid of \$16,939.89, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 400, Organization 1814, Object 5245.

Resolution 99-0150 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Resolution 98-0643 to D.M.D. - Measurement Operation for furnishing Roots gas meters and repair parts, be amended to increase the amount by \$14,104.75 for a new total of \$26,884.75, payable out of Gas Fund 520, Dept./Agency 900, Organization 0543, Object 5220.

Resolution 99-0156 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that T.A. Engineering Company, Inc., be and hereby is awarded a contract for furnishing and delivering software upgrade for the water and gas department in accordance

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

with specifications on its low specification bid of \$7,657.35, terms net 30, FOB destination, \$3,828.67 payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5210 and \$3,828.68 payable out of Gas Fund 520, Dept./Agency 900, Organization 0555, Object 5210.

Resolution 99-0162 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that MacQueen Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering a sewer vacuum truck for the sewer division in accordance with specifications on its low specification bid of \$260,434.17, terms net 30, FOB destination, payable out of Stormwater Utility Fund 535, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 99-0142 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 97-0891 to H.D.R., Inc., for furnishing professional engineering services for reconstruction of lift station number three, be amended to increase the amount by \$40,921.23 for a new total of \$81,706.23, payable out of Sewer Construction Bond Fund 531, Dept./Agency 500, Object 5532.

Resolution 99-0147 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Larson Chevrolet-Olds be and hereby is awarded a contract for furnishing and delivering one 1-ton Chevrolet cab and chassis with extended cab, 12,000 GVWR with 4 x 4 for the sewer division in accordance with specifications on its low specification bid of \$36,677.78, terms net 30, FOB shipping point, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 99-0157 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Flexible Pipe Tool Company be and hereby is awarded a contract for furnishing, installing and delivering one sewer rodding machine to be mounted on a 1-ton cab and chassis for the sewer division in accordance with specifications on its low specification bid of \$37,084.05, terms net 30, FOB shipping point, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 99-0158 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Eagle Point be and hereby is awarded a contract for furnishing and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

delivering software for the engineering division in accordance with specifications on its low specification bid of \$5,271.75, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 99-0159 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement, filed as Public Document No. 99-0222-17, between the city of Duluth and Field Training Associates for the purposes of providing instructional services at a cost to the city of \$5,125, to be paid from the Revenue Fund 215, Agency 200, Organization 2451.

Resolution 99-0131 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies of up to \$75,000 from the United States department of justice for expenditures related to the Central Hillside task force program.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police department. All reimbursements are to be deposited in Duluth police grant programs, Fund 215, Police Department Agency 200, Organization 2448, Revenue Source 4210.

Resolution 99-0132 was unanimously adopted.

Approved February 22, 1999

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:

- front of 110 South 65th Avenue West;
- front of 410 North 48th Avenue West;
- front of 217 North 35th Avenue West;
- front of 2820 Wicklow Street;
- front of 2226 West Fifth Street;
- front of 2128 West Fourth Street;
- front of 114 West Fourth Street;
- side of 1201 North Lake Avenue;
- front of 1432 East Fourth Street.

Resolution 99-0134 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement, filed as Public Document No. 99-0222-18, between the city of Duluth and Wicklander-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Zulawski, for the purpose of providing instructional services at a cost to the city of \$10,000, to be paid from Fund 100, Agency 200, Organization 2435, Object 5319, and Fund 100, Agency 200, Organization 1610, Object 5448.

Resolution 99-0155 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

At this time, 8:30 p.m., Councilor Prettner Solon left the meeting.

- - -

The following resolutions were also considered:

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement between the city and AFSCME Council 96, Local 66, representing the basic bargaining unit, covering year 1999; said agreement to be substantially in the form and containing the terms and conditions set out in Public Document No. 99-0222-19 on file with the city clerk. Corrections may be made for typographical errors or mistakes.

Resolution 99-0133 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0153, by Councilor Rapaich, confirming the appointment of Richard Larson as the director of the department of water and gas, was introduced for discussion.

Councilor Hogg questioned why the city can not wait until the water and gas and public works departments are joined before appointing someone into this position. He continued by saying that this is a signal that the city has decided on a process that has not been approved by the council.

Administrative Assistant Hartl replied that someone has to be in charge for the gas pipeline safety regulations and someone needs to be an official representative of that department authorized to make decisions. He continued by saying that besides being the department head for water and gas, he is also the department head for administrative services along with being the administrative assistant, and for managerial efficiency it would be a good idea for him to appoint a new water and gas director.

Resolution 99-0153 was adopted as follows:

BY COUNCILOR RAPAICH:

WHEREAS, Administrative Assistant Robert Hartl has appointed Richard Larson as director of the department of water and gas, effective February 23, 1999, and such appointment has been approved by Mayor Gary Doty; and

WHEREAS, pursuant to Section 19 of the Duluth City Charter such appointment is subject to confirmation by the city council;

NOW, THEREFORE, BE IT RESOLVED, that the appointment of Richard Larson as the director of the department of water and gas is hereby confirmed.

Resolution 99-0153 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hardesty, Rapaich, Swapinski and President Keenan -- 6

Nays: Councilor Hogg -- 1

Absent: Councilors Hales and Prettner Solon -- 2

Approved February 22, 1999

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement and the first amendment thereto, copies of which shall be on file with the city clerk's office as Public Document No. 99-0222-20, with St. Louis County to provide services under the Minnesota family investment program (MFIP) at costs not to exceed \$2,500 per participant, and food stamp employment and training (FSET) services at costs not to exceed \$400 per participant. Contract dates shall run from July 1, 1998, through June 30, 1999.

FURTHER RESOLVED, that monies received under this agreement shall be deposited in Fund 269, Budget Items 6278 and 6279.

Resolution 99-0160 was unanimously adopted.

Approved February 22, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0168, by Councilor Hardesty, supporting the state legislative priorities of the property tax study project, was introduced for discussion.

Councilor Hardesty moved to table the resolution for a committee meeting on March 1, which motion was seconded and unanimously carried.

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Resolution 99-0164, by Councilor Gilbert, directing the closure of Lakeview Avenue at the Hawthorne Avenue intersection, was introduced for discussion.

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

Lezlie Oachs reviewed that this issue had been before the planning commission at their last meeting and had been denied. She continued by saying that they are trying to expedite this matter as Lakeview Avenue is scheduled to be resurfaced this summer, and they would like to deadend this street before any work is done to the street. Ms. Oachs stated that she has talked to the city engineer, the fire chief and Councilor Gilbert and understands the city's position of not wanting to set a precedent of closing streets. She stated that she feels that they have a unique street and circumstances that set it apart from the rest of Duluth's streets. Ms. Oachs also stated that this effort to close the street has 100 percent supported by all of the residents on Lakeview Avenue.

The following residents spoke in favor of this resolution: Edith Hols, Bob McDonald, Ricardo Acevedo, Steve Aulie, Catherine Acevedo and Greg Yetter stated that: this is an issue of public safety for the neighborhood; with the resurfacing of Lakeview Avenue it would make it a quick U-turn route for dropping off students at East High School; the outlet from Lakeview Avenue to Hawthorne Road can be treacherous because of the angle of the road and the steepness of the avenue which makes it very difficult to see if there is traffic coming down Hawthorne Road; water and ice build up at the corner of Hawthorne Road and Lakeview Avenue, which makes it difficult to turn on to Lakeview or to stop if someone is turning; there are no sidewalks on Lakeview Avenue so the children have to walk on the street or snowbanks; there is alley access on the lower side of Lakeview Avenue which should be wide enough for a snowplow or fire truck to drive down, so that they could come down Lakeview and go back out through the alley; if the city closed off the street at the alley entrance they could make a hammerhead turn for cars and emergency vehicles; there is no replication of this shape of street anywhere in the city so that closing the street would not start a movement for other neighborhoods to do the same; according to the fire chief, it would take approximately one to 1-1/2 more minutes for the fire trucks to respond to a fire on that block, which is important, but not as important as the safety of the children walking on the

street to school 160 days each year; and the residents would be responsible for the green space that would be made on the closed off portion of the avenue.

Councilor Gilbert stated that he is supportive of this idea because the residents have made some sound arguments. He encouraged the councilors to check out the area and moved to table the resolution for further study, which motion was seconded and unanimously carried.

- - -

Resolution 99-0161, by Councilor Swapinski, awarding contract to Veit and Company, Inc., for demolition, in the amount of \$103,130, was introduced for discussion.

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

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following ordinances were read for the first time:

BY COUNCILOR PRETTNER SOLON

99-003 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NUMBERS 20, 23 AND 24 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED ON THE CORNER OF PIEDMONT AVENUE, TRINITY ROAD AND SKYLINE PARKWAY FROM C-1, COMMERCIAL TO C-2 HIGHWAY COMMERCIAL.

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

Ralph Lockman, representing Murphy Oil, reviewed that there was a convenience store/gas station at this location for about 40 years, but that due to traffic changes in the area, it was no longer viable as a gas station and convenience store. He stated that his company came to terms with Haglun Marine to lease the facility and would be displaying boats on the property, but that most of their business would continue to be out of their main store. Mr. Lockman reviewed that the planning commission had denied their request for reclassification because of the negative impact of the traffic at the intersection, but he stated that with this new business there would not be the volume of traffic that was there before with approximately 20- 50 customers a day. He added that his company wants to lease this space to a responsible business which would not have a negative impact on the location and feels that this business would fit that description.

Mark Carlson, general manager at Haglun Marine, stated that all he wants to do is clean up the area, put some boats on the property and put up a three dimensional sign to make the area look presentable. He continued by saying that he is aware that there are potential changes for the Lincoln Park and Skyline areas, but he is interested in a short term lease of three years and then he will be gone from that corner.

Councilor Hogg questioned if the lease period would be only for three years, why a special use permit was not pursued instead of a permanent zoning change.

Mr. Lockman replied that he discussed that with Jim Mohn of the physical planning division but Mr. Mohn was not in favor of that course of action.

Mr. Hartl stated that he would review the issue with Mr. Mohn and respond back to the council.

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BY COUNCILOR PRETTNER SOLON

99-005 - AN ORDINANCE GRANTING ST. MARY'S DULUTH CLINIC (SMDC) MEDICAL CENTER A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN AN EXPANDED SKYWALK OVER EAST THIRD STREET AND A CLINIC DROP OFF AND LOADING AREA

ALONG THE SOUTH SIDE OF EAST THIRD STREET BETWEEN FOURTH AVENUE AND FIFTH AVENUE EAST (SMDC).

- - -

BY COUNCILOR PRETTNER SOLON

99-007 - AN ORDINANCE GRANTING TO CANAL PARK SQUARE, INC., CANAL PARK ANTIQUE MALL FOR A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN AN AWNING OVER THE SIDEWALK AT 310 SOUTH LAKE AVENUE.

- - -

BY COUNCILOR SWAPINSKI

99-004 - AN ORDINANCE COMBINING THE DEPARTMENTS OF PUBLIC WORKS AND WATER AND GAS; AMENDING SECTIONS 2-2, 2-6 AND 48-1 OF THE CITY CODE AND REPEALING SECTION 2-4 OF THE CITY CODE.

- - -

The following ordinances were read for the second time:

BY COUNCILOR PRETTNER SOLON

99-001 - AN ORDINANCE PERTAINING TO THE REGULATION OF TOBACCO; AMENDING SECTIONS 11-2, 11-5 AND 11-10 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Tom Allnew spoke against the regulation of tobacco as there is already too much regulation in citizens' lives.

Dean Cox reviewed that as proprietor of Duluth Tobacco and Gifts, he does not have a problem with the proposed ordinance change that would increase penalties to minors, but has a concern that the employee must physically deliver the tobacco to the customer. He reviewed that a smoke shop is different than the other sellers of tobacco because cigars are sold in cases where the customers can handle and smell the product for freshness and aroma. Mr. Cox continued by saying that he will not be able to sell as many cigars if he has to hand each customer a cigar and requested that an amendment be allowed to exclude smoke shops from this restriction.

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

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BY COUNCILOR SWAPINSKI

99-002 (9403) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CONSTRUCTION AND PERMANENT SANITARY SEWER EASEMENTS OVER LOTS 1 AND 2, BLOCK 17, ONEOTA, TO THE WESTERN LAKE SUPERIOR SANITARY DISTRICT.

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

- - -

The meeting was adjourned at 10:30 p.m.

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

- - -

ORDINANCE NO. 9403

BY COUNCILOR SWAPINSKI:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CONSTRUCTION AND PERMANENT SANITARY SEWER EASEMENTS

OVER LOTS 1 AND 2, BLOCK 17, ONEOTA, TO THE WESTERN
LAKE SUPERIOR SANITARY DISTRICT.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby grants and conveys construction and permanent easements for sewer pipeline purposes to the Western Lake Superior Sanitary District, in the form of Public Document No. 99-0222-21, over the following described land in St. Louis County, Minnesota:

Lots One (1) and Two (2), Block Seventeen (17), ONEOTA, according to the recorded plat thereof on file and of record in the office of the county recorder, St. Louis County, Minnesota;

said easements being more particularly described as follows:

(1) A permanent utility easement over, under and across that part of Lot 2, Block 17, Oneota, lying ten feet to the left of the line described as follows:

Commencing at the most northerly corner of Lot 3, Block 17, Oneota, thence southeasterly along the northeasterly line of said Lot 3 a distance of 113.88 feet; thence deflect 88°-21'-00" to the right in a southwesterly direction a distance of 37.10 feet to the point of beginning of the line to be described; thence deflect 86°-33'-53" to the right in a northwesterly direction a distance of 115.40 feet to the northwesterly line of said Lot 3, and said line there terminating.

The side line of said easement is prolonged or shortened to terminate on the northeasterly and northwesterly lines of said Lot 2; and

(2) A temporary construction easement over, under and across Lots 1 and 2, Block 17, Oneota, lying between two parallel lines ten feet and 40 feet to the left of the line described as follows:

Commencing at the most northerly corner of Lot 3, Block 17, Oneota, thence southeasterly along the northeasterly line of said Lot 3 a distance of 113.88 feet; thence deflect 88°-21'-00" to the right in a southwesterly direction a distance of 37.10 feet to the point of beginning of the line to be described; thence deflect 86°-33'-53" to the right in a northwesterly direction a distance of 125 feet; thence deflect 73°-44'-23" to the left in a westerly direction a distance of 125 feet, and said line there terminating.

The side line of said easement is prolonged or shortened to terminate on the southeasterly line of said Lot 2 and the southwesterly line of Lot 1.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 28, 1999)

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

Yeas: Councilors Edwards, Gilbert, Hardesty, Hogg, Rapaich, Swapinski and President Keenan -- 7

Nays: None -- 0

Absent: Councilors Hales and Prettnner Solon -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed February 22, 1999
Approved February 22, 1999
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 15, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of the council meeting held on December 21, 1998, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0315-01 Maureen J. DeRosier, et al. (two signatures), submitting petition to construct a sanitary sewer in Grand Avenue Place from Gogebic Street to 230 feet southwesterly to serve Lots 8-13, Block 5, Rearrangement of Lenroot's Addition to Ironton Division. -- Assessor

99-0315-02 Duluth Lakewalk Offices, LLC, by William Burns, attorney, submitting petition to vacate a triangular encroachment of the building at 1420 London Road on to a portion of the retained easement. -- Assessor

99-0315-03 Minnesota Power submitting petition to vacate a portion of the public skywalk located on the second floor of the Lake Superior Plaza Building. -- Assessor

99-0315-29 Arrowhead Multihousing Association, by William M. Burns, attorney, submitting communication regarding the stormwater utility (99-0113R). -- Received

99-0315-04 Rolf Flaig submitting communication regarding the proposed reclassification from R-1-b to C-1 property located at 1315 West Arrowhead Road (99-008-O). -- Received

99-0315-05 Zenith City Diggers submitting communication regarding the proposed Harbor-Place strategic development plan (99-0118R and 99-0129R). -- Received

99-0315-27 The following submitting communications regarding the proposed amendment to the tobacco ordinance (99-001-O): (a) American Heart Association area director; (b) Shari Markkula (31 signatures); (c) St. Louis County public health division; (d) Allen C. Willman. -- Received

99-0315-28 The following submitting communications regarding the proposed Lakewalk extension to Jefferson, Greysolon and Branch streets (99-0216R): (a) Burton Olson (73 signatures); (b) Bill and Dolly Schnell. -- Received

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REPORTS OF OFFICERS

99-0315-06 Assessor submitting:

(a) Affidavits of mailing of notice of public hearings by the special assessment board on Tuesday, March 9, 1999, at:

(1) 4:15 p.m. regarding reassessment of permanent street sanitary sewer, water and gas mains in Woodridge First Addition;

(2) 4:30 p.m. regarding proposed construction of bituminous overlay on 32nd Avenue West from Superior Street to Carlton Avenue;

(3) 4:45 p.m. regarding proposed construction of a sanitary sewer in Grand Avenue Place from Gogebic Street to 230 feet southwesterly;

(4) 5:00 p.m. regarding proposed construction of a bituminous overlay on Blackman Avenue from Arrowhead Road to Macfarlane Road;

(5) 5:00 p.m. regarding proposed construction of a bituminous overlay on Macfarlane Road from Blackman Avenue to Howard Gnesen Road. -- Clerk

(b) Letters of sufficiency pertaining to:

(1) Petition to construct a sanitary sewer in Grand Avenue Place from Gogebic Street to 230 feet southwesterly to serve Lots 5 through 13, Block 5, Rearrangement of Lenroot's Addition to Ironton;

(2) Petition to vacate a portion of the pedestrian walkway covering all of Lots 40 and 42 and the westerly 40 feet of Lot 38, West First Street, Duluth Proper 1st Division, all of Lots 33, 35, 37, 39, 41, 43, 45 and 47;

(3) Petition to vacate approximately 265 square feet of the existing public skywalk on the second floor of that portion of the Lake Superior Plaza Building located on Lots 10 and 12, Block 4, Central Division of Duluth;

(4) Remonstrance petition regarding proposed construction of a sanitary sewer in Grand Avenue Place from Gogebic Street to 330 feet southwesterly to serve Lots 5 through 13, Block 5, Rearrangement of Lenroot's Addition to Ironton Division. -- Received

99-0315-07 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license from Holy Family Catholic Church (raffle) on September 11, 1999. -- Received

99-0315-08 Engineering division submitting monthly project status report of March 1, 1999. -- Received

99-0315-30 Planning and development department acting director submitting report on DEDA. -- Received

Cynthia Albright, acting director of planning and development, reviewed that at a December 1998 city council meeting she offered to undertake a study of the Duluth economic development authority (DEDA) procedures and decision making practices by March 15, 1999. She continued by saying that she is presenting the results and recommendations of that study which shows a solid record of successful accomplishments of DEDA's mission. Ms. Albright added that DEDA is at a crossroads, which is visible from the financial projections in the study with a future that is limited by decreasing revenues. She expressed her hope that this study will be an opportunity for the council to consider future actions and provide continued support for the efforts of DEDA to enhance the growth of jobs in the tax base in Duluth. Ms. Albright suggested a committee meeting with the council to engage in a thorough discussion of this study and future actions that the council might want to consider.

Councilor Hardesty reviewed that when Ms. Albright proposed this study of DEDA it was her understanding that there would be more than just Ms. Albright involved in this study, and questioned if there was community involvement.

Ms. Albright replied that the report lists the various departments that were involved in the study and, when the work began on the study, she realized a list of DEDA's accomplishments of the last ten years needed to be listed to be used as a data base for the recommendations made by the study.

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REPORTS OF BOARDS AND COMMISSIONS

99-0315-09 Board of zoning appeals minutes of January 26, 1999, meeting. -- Received

99-0315-10 Building appeal board minutes of February 10, 1999, meeting. -- Received

99-0315-11 Housing and redevelopment authority minutes of January 26, 1999:

(a) Annual; (b) Regular meetings. -- Received

99-0315-12 Parks and recreation commission minutes of January 13, 1999, meeting. -- Received

99-0315-13 Sanitary sewer board of the WLSSD minutes of: (a) February 8; (b) February 22, 1999, meetings. -- Received

99-0315-14 Special assessment board minutes of February 9, 1999, meeting. -- Received

99-0315-15 Spirit Mountain recreation area authority minutes of February 1, 1999, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Tom Allnew expressed his thanks to the people who are encouraging him to be outspoken and voice his opinion at council meetings. He also stated his concern on the building of the Lake Superior Center, as it will not help educate the public on the clean water of Lake Superior.

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Councilor Hogg moved to consider Resolution 99-0239, amending Resolution 89-0323 establishing the Duluth economic development authority to require that an expenditure by the authority in excess of \$25,000 must be approved by the city council, by councilors Gilbert and Swapinski, at this time, which motion was seconded and unanimously carried.

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

Erik Peterson reviewed that the director of DEDA proposed a self study as an alternative to a resolution that was before the council on December 7, 1998, which would require the city council to approve all business subsidies over \$25,000. He continued by saying that this study was to include involvement from the public, school district and the county and would deal with the issues of public accountability and the concerns over accountability. Mr. Peterson stated that in skimming over the report, there are three recommendations: (a) DEDA producing a report to the council — which should have been done for the last ten years; (b) propose strategic planning — but that has nothing to do with public accountability; and (c) DEDA should review public concerns over public accountability. He stated that while he has not had a chance to review the report in depth, it appears there is a lot of data, but nothing else. Mr. Peterson urged passage of the resolution as there was a lack of good faith shown in the report that was produced.

Councilor Prettnier Solon rejected the comment that DEDA has not made a report to the council for the last ten years and reviewed that each year an audited report is given to the council that identifies what the mission has been, what the accomplishments have been and what the challenges are. She continued by saying that these reports have always been available to the public.

Councilor Hardesty stated her disappointment with the report in that it did not involve more outside people, such as some of the city councilors, in the study.

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

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RESOLUTIONS TABLED

Councilor Hogg moved to remove Resolution 99-0054, amending Rule 7 of the standing rules of the city council changing the order of business at the annual reorganization meeting, from the table, which motion was seconded and unanimously carried.

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

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Councilor Hardesty moved to remove Resolution 99-0168, supporting the state legislative

priorities of the property tax study project, from the table, which motion was seconded and unanimously carried.

Resolution 99-0168 was adopted as follows:

BY COUNCILOR HARDESTY:

WHEREAS, the city is a participant in the property tax study project (project) which is being carried out by a coalition of large taxing jurisdictions in the state of Minnesota; and

WHEREAS, the project has finalized a list of state legislative priorities for the current legislative session; and

WHEREAS, the project would like the governing bodies of each of its members to endorse its legislative priorities; and

WHEREAS, the city administration supports the legislative priorities of the project;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby indicates its support of the state legislative priorities of the project, a list of which is on file in the office of the city clerk as Public Document No. 99-0315-16.

Resolution 99-0168 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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Councilor Swapinski moved to remove Resolution 99-0113, authorizing an agreement with Camp, Dresser & Mckee for a study of rate adjustment factors for the stormwater utility for a consideration of not to exceed \$8,500, from the table, which motion was seconded and unanimously carried.

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

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MOTIONS AND RESOLUTIONS

The following entitled resolution was read for the first time:

BY COUNCILOR HOGG

99-0228R - RESOLUTION AMENDING RULES 1(a), 7 AND 14 OF THE STANDING RULES OF THE CITY COUNCIL AND ADDING A NEW RULE 7B TO SUCH RULES.

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CONSENT AGENDA

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

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

BY COUNCILOR EDWARDS:

RESOLVED, that Doyle Equipment Company, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Hi-Way sanders for the fleet services division as needed during 1999, for an estimated total of \$8,000, terms net 30, F.O.B. shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 99-0191 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Monroe Truck Equipment, Inc., be and hereby is awarded a contract for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

furnishing and delivering O.E.M. parts and repairs for Monroe equipment for the fleet services division as needed during 1999, for an estimated total of \$6,000, terms net 30, F.O.B. shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 99-0192 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Runzheimer International be and hereby is awarded a contract for furnishing professional service for the auto reimbursement program (FAVR) for the fleet services division in accordance with specifications on its low specification bid of \$5,857, terms net 30, FOB destination, various funds, dept./agencies, organizations, and objects.

Resolution 99-0193 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Cartier Agency, Inc., be and hereby is awarded a contract for furnishing property insurance for city owned structures in accordance with specifications on its low specification proposal of \$45,890 annually, terms net 30, FOB job sites, payable out of Self Insurance Fund 605, Dept./Agency 036, Organization 1650, Object 5441.

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

Resolution 99-0205 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Advanced Modular Power Systems be and hereby is awarded a contract for furnishing and delivering one hydraulic generator, 10,000 watt PTO with pump and digital meter for the fire department in accordance with specifications on its low specification bid of \$10,001.42, terms net 30, FOB shipping point, payable out of Fleet Services Fund 660, Dept./ Agency 015, Organization 1560, Object 5221.

Resolution 99-0208 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Larson Chevrolet Oldsmobile, Inc., be and hereby is awarded a contract for furnishing and delivering six one-ton trucks with plow, hoist and tipper for the street maintenance division in accordance with specifications on its low specification bid of \$230,397, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2009, Object V909.

Resolution 99-0217 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

BY COUNCILOR EDWARDS:

WHEREAS, the Minnesota Senior Federation, Northeast Coalition, St. Margaret Mary's Church, and Arrowhead Region Limbangers Chapter have applied to the Minnesota gambling control board for a lawful gambling exemptions (raffle); and

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing lawful gambling exemptions to the Minnesota Senior Federation, Northeast Coalition, St. Margaret Mary's Church, and Arrowhead Region Limbangers Chapter and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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

Resolution 99-0218 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that United Electric Company be and hereby is awarded a contract for furnishing and delivering various fluorescent, incandescent and high intensity discharge lamps for 1999 requirements for the various city departments/divisions in accordance with specifications on its low specification bid of \$22,990, terms net 30, FOB pick-up, payable out of various funds, dept./agencies, organizations, and objects.

Resolution 99-0220 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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

Resolution 99-0221 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Larson Chevrolet-Olds be and hereby is awarded a contract for General Motors O.E.M. Chevrolet parts and service for 1999 for the fleet services division in accordance with specifications on its low specification bid of \$20,000, terms net 30, FOB destination, \$17,000 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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

Resolution 99-0223 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Miller Mall Auto Parts be and hereby is awarded a contract for furnishing and delivering auto seal beams and miniature lamps for 1999 requirements for the various city departments/divisions in accordance with specifications on its low specification bid of \$7,260, terms net 30, FOB pick-up, payable out of various funds, dept./agencies, organizations, and objects.

Resolution 99-0225 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

BOARD OF ZONING APPEALS

Jeffrey Jackson (planning commission) for a term expiring July 31, 2002, replacing Stanley Gershgol who resigned.

Resolution 99-0169 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

DULUTH HOUSING TRUST FUND BOARD

Debra Branley (CDBG neighborhood) for a term expiring September 30, 2000, replacing Maureen Booth.

Kay Slack (at large) for a term expiring September 30, 1999, replacing Gary Olson, who resigned.

Resolution 99-0170 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

SISTER CITY COMMISSION

Allen J. Gummert and Fredric Youngstrand for terms expiring March 30, 2002.

Resolution 99-0171 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

BY COUNCILOR RAPAICH:

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

BUILDING APPEAL BOARD

James P. Berry (commercial building construction), Jon Helstrom (registered architect) and Howard Jacobs (registered engineer) for terms expiring February 1, 2002.

Resolution 99-0177 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Gary Eckenberg (at large), Patricia Sobczak (West End/Lincoln Park) and Bruce Wyman (Central Hillside) for terms expiring March 1, 2002.

Resolution 99-0178 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

HUMAN RIGHTS COMMISSION

Judith Gillen and Kevin Galazen for terms expiring March 1, 2002.

Resolution 99-0179 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

NEIGHBORHOOD ADVISORY COUNCIL

David D. Haglin (Morgan Park), Daniel Nyquist (West End/Lincoln Park) and Bruce Wyman (Central Hillside) for terms expiring March 1, 2002.

Resolution 99-0180 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

SPECIAL BOARD OF REVIEW

Lynn Beechler (real estate broker) for term expiring July 31, 2002.

Resolution 99-0181 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed specifications for the new civil service classification of wastewater construction leadworker, which were approved by the civil service board on July 5, 1994, and which are filed with the city clerk as Public Document No. 99-0315-17, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees.

Resolution 99-0194 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of golf worker, which were approved by the civil service board on January 5, 1999, and which are filed with the city clerk as Public Document No. 99-0315-18, 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 remain the same, pay range 15, pay rate \$1,431 to \$1,673 per month.

Resolution 99-0198 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

DULUTH PUBLIC ARTS COMMISSION

Suzanna Didier for a term expiring September 30, 2000, replacing Charles Salmela who resigned.

Resolution 99-0199 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

SISTER CITY COMMISSION

Sandra Morgan for a term expiring March 30, 2002, replacing Martha Firling.

Resolution 99-0200 was unanimously adopted.

Approved March 15, 1999

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 alley legally described as: the alley adjoining Lots 1 & 2 northerly 20 feet of Lot 3 and northerly 80 feet of Lot 16, Block 32, Duluth Heights, Sixth Division; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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 14, 1999, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of property described above, and as more particularly described on Public Document No. 99-0315-19.

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 alley to be vacated.

Resolution 99-0184 was unanimously adopted.

Approved March 15, 1999

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 Allandale Avenue between Woodland Avenue and Hubbell Street legally described as: Allandale Avenue adjacent to Lots 13-17, Block 4, Colman Park Division, and Lots 1 and 14, Block 2, Grove Hill 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 February 24, 1999, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the property described above, and as more particularly described on Public Document No. 99-0315-20.

BE IT FURTHER RESOLVED, that the full 66 feet of right-of-way 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 street to be vacated and the easement being retained.

Resolution 99-0185 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 99-0315-21, to City Contract No. 17411 with the Human Development Center and the housing and redevelopment authority of Duluth amending the scope of the project from short-term to long-term housing of persons with mental illness at no change in compensation under the agreement.

Resolution 99-0202 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved March 15, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth established certain 1996 and 1998 CDBG accounts; and
WHEREAS, the city-wide citizen's advisory committee (CCAC) for the CDBG program
passed a resolution recommending funding changes as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to
make the following fund transfers in the Federal Program Fund 262-1996 and 1998 HUD-funded
community development accounts as set forth below:

1996 and 1998 CDBG Transfers

Account Revised - 1996

<u>Project #</u>	<u>Project</u>	<u>Original Amt</u>	<u>New Amt</u>	<u>Amt of Increase or Decrease</u>
6923('96)	Life House	\$33,000	\$25,000	(\$8,000)

Reprogrammed Use - 1998

6130('98)	Tenants Union	\$17,000	\$25,000	\$8,000
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Resolution 99-0204 was unanimously adopted.

Approved March 15, 1999

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
BendTec, 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 BendTec, Inc.

Resolution 99-0227 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that Cushman Motor Company be and hereby is awarded a contract for
furnishing and delivering one Ransomes Model 951D commercial front mounted riding mower for
the Enger golf course division in accordance with specifications on its low specification bid of
\$33,999.06, terms net 30, FOB shipping point, payable out of Golf Fund 503, Dept./Agency 400,
Organization 0505, Object 5580.

Resolution 99-0141 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

RESOLVED, that Schwab-Vollhaber-Lubratt Service Corporation be and hereby is awarded a contract for furnishing and installing one replacement Reliance Premium XE fan motor for the Duluth public library in accordance with specifications on its low specification bid of \$6,159.45, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 300, Organization 1703, Object 5404.

Resolution 99-0188 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with the Ordean Foundation, accepting \$7,124. This money will be used to purchase equipment and supplies to establish a vision lab to enhance learning for participants at the employment opportunity center and to provide staff training in the use of equipment and materials.

FURTHER RESOLVED, that monies received under these grants shall be deposited in Fund 269, Budget Item 6285.

Resolution 99-0212 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

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 \$16,660, terms net 30, FOB destination, \$5,497.80 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5404 and \$11,162.20 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 four additional years subject to budget allocations and the agreement of both parties.

Resolution 99-0189 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, various private parties have constructed and paid for water and gas main extensions as listed in Exhibit A (Public Document No. 99-0315-22); 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 99-0196 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved March 15, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, various private parties have constructed and paid for water and gas main extensions as listed in Exhibit A (Public Document No. 99-0315-23); 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 99-0197 was unanimously adopted.

Approved March 15, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, in accordance with the rules, regulations and user charge system governing the use of steam by the members of the city of Duluth Steam District No. 2 Cooperative Association, Minnesota Power wishes to supply its own wood fuel; and

WHEREAS, Duluth Steam District No. 2 will be required to make certain modifications to existing equipment, including installation of new equipment, to permit wood chips and wood by-products to be burned, providing energy simultaneously to both boilers; and

WHEREAS, modifications to the main steam piping also need to be made by the Duluth Steam District No. 2 to allow Minnesota Power to utilize steam from either boiler at the turbines lead piping; and

WHEREAS, such capital improvements will require an increase in the 1999 annual capital budget of Steam District No. 2 of \$400,000; and

WHEREAS, the city of Duluth, by resolution of its city council, is required to approve such capital improvements before they can be made; and

WHEREAS, the Duluth Steam District No. 2 cooperative association board of directors has recommended that the city council approve the proposed capital improvements subject to the agreement of Minnesota Power that all costs of this project will be borne solely by Minnesota Power and that the other current members of the cooperative association shall have no liability for the capital costs of this project.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby approves the proposed capital improvements project of Duluth Steam District No. 2 subject to the agreement of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Minnesota Power to pay all costs of such project as recommended by the Duluth Steam District No. 2 cooperative association board of directors.

Resolution 99-0203 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized and directed to execute two railroad crossing agreements, filed as Public Document No. 99-0315-24, between the city of Duluth and Burlington Northern and Santa Fe Railroad Company necessary for the reconstruction of Railroad Street for a cost of \$36,800 and \$39,200, respectively, for a total of \$76,000 to be paid from the Special Assessment Fund 810 and reimbursed by MSA funds.

Resolution 99-0176 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires field and laboratory testing; and

WHEREAS, the city desires to hire a consulting firm to provide the services required for support of construction, operation and maintenance of city system; and

WHEREAS, American Engineering Testings, Inc., and Twin Ports Testing, Inc., 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., and Twin Ports Testing, Inc., to provide the city with such field and laboratory testing services.

BE IT FURTHER RESOLVED, that the cost of said field and laboratory testing services, total estimated at \$50,000 (approximately \$25,000 per each vendor), will be payable from the various funds, dept./agencies, organizations, objects.

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

Resolution 99-0207 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Housing and Redevelopment Authority (HRA) be and hereby is awarded a contract for professional right-of-way and easement acquisition services for 1999 street improvement projects and Michigan Street realignment for the engineering division in accordance with specifications on its proposal of \$54,800, terms net 30, FOB job sites, \$32,700 payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9900, Object 5319 and \$22,100 payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2165, Object 5530.

Resolution 99-0209 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

RESOLVED, that United Electric Company, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 100 separate electrical supply items for the building maintenance division in accordance with specifications on its low specification bid of \$7,253.49, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5220.

Resolution 99-0211 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer in Grand Avenue Place from Gogebic Street to 230 feet southwesterly to serve: Lots 8 through 13, Block 5, Rearrangement of Lenroot's Addition to Ironton Division.

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 99-0213 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Westburne Supply Company be and hereby is awarded a contract for furnishing and delivering miscellaneous plumbing supplies during 1999 for the building maintenance division in accordance with specifications on its low specification bid of \$14,021.74, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5220.

Resolution 99-0215 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Earl F. Andersen, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 930 traffic signs for the traffic operations division in accordance with specifications on its low specification bid of \$11,194.98, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5226.

Resolution 99-0219 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Warning Lites of Minnesota be and hereby is awarded a contract for rental of steel barricades during 1999 for the various city departments/divisions in accordance with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

specifications on its low specification bid of \$9,000, terms net 30, FOB job site, payable out of various funds, dept./agencies, organizations and objects.

Resolution 99-0222 was unanimously adopted.
Approved March 15, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that Motorola Communications and Electronics be and hereby is awarded a contract for furnishing and delivering 13 portable radios and accessories for the police department in accordance with specifications on its low specification bid of \$8,972.67, terms net 30, FOB destination, \$7,273 payable out of General Fund 100, Dept./Agency 200, Organization 2432, Object 5241 and \$1,699.67 payable out of General Fund 100, Dept./Agency 200, Organization 2431, Object 5241.

Resolution 99-0190 was unanimously adopted.
Approved March 15, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-97.8 of the Duluth City Code, 1959, as amended, that on Ramsey Street from 54th Avenue West to 51st Avenue West alternate side parking shall apply only from 1:00 a.m. to 7:00 a.m. each day of the week.

Resolution 99-0201 was unanimously adopted.
Approved March 15, 1999
GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 99-0195, by Councilor Hogg, confirming assessment rolls levied to defray the assessable portions of 1998 street improvement program and permanent alleys, was introduced for discussion.

Councilor Hogg moved to separate the Upper Lincoln Park portion out of the resolution, which motion was seconded and unanimously carried.

Councilor Prettner Solon stated that she will be abstaining from voting on the Upper Lincoln Park resolution because she is being assessed.

Resolution 99-0195(a) was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the assessment roll levied to defray the assessable portion of the following is hereby confirmed:

1998 street improvement program

<u>PROJECT</u>	<u>CONTRACT #</u>	<u>ASSESSABLE</u>
Upper Lincoln Park	7032	\$189,179.40

Resolution 99-0195(a) was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Prettner Solon -- 1

Approved March 15, 1999
GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0195(b) was adopted as follows:

BY COUNCILOR HOGG:

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

1998 street improvement program

<u>PROJECT</u>	<u>CONTRACT#</u>	<u>ASSESSABLE</u>
Kenwood Avenue	7028	\$ 76,219.16
Upper Endion East	7029	295,463.74
Lower Lakeside	7030	425,689.24
Norton Park West	7031	221,685.82
Upper Woodland	7033	368,917.34

Permanent alleys

11th Alley-Ninth to Tenth Avenue East	5282	22,000.00
Fourth Alley-24th to 25th Avenue East	5283	22,000.00

Resolution 99-0195(b) was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0172, approving receipt of \$12,500 from Minnesota department of natural resources for the continued administrative support of the McQuade public access committee; Resolution 99-0173, authorizing proper city officials to increase by \$4,500 an existing agreement (#17222) with Margaret R. Colombo for public information services for the McQuade protected access committee to an amount not to exceed \$42,330; and Resolution 99-0174, authorizing proper city officials to increase by \$8,000 an existing agreement (#17153) with Cheryl Erickson for administrative services for the McQuade protected access committee to an amount not to exceed \$77,850, by Councilor Edwards, were introduced for discussion.

Councilor Swapinski stated his opposition to this project and will not vote in favor of these resolutions even though they involve pass-through monies from the state. He continued by saying that he does not want the city to continue serving as a fiscal agent or promoting this project.

Resolutions 99-0172, 99-0173 and 99-0174 were adopted as follows:

BY COUNCILOR EDWARDS:

WHEREAS, the McQuade public access committee formed under the direction of the township of Duluth continues to make positive progress; and

WHEREAS, the direct role of the city is now largely limited to serving as the fiscal agent; and

WHEREAS, the state of Minnesota has agreed to provide the city of Duluth with administrative support funding in an amount of an additional \$12,500 to the McQuade public access project for the period January 1, 1999 - June 30, 1999.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are authorized to execute an agreement with the Minnesota department of natural resources to assist with the administrative responsibilities of the McQuade public access joint board in an amount not to exceed \$12,500 to be deposited in the General Fund 100, Administrative Services 015, miscellaneous, Organization 2020; said agreement to be substantially in the form of that certain document on file the office of the city clerk as Public Document No. 99-0315-25.

Resolution 99-0172 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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

Nays: Councilors Hardesty and Swapinski -- 2

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

WHEREAS, the McQuade protected access committee continues to make progress on the project; and

WHEREAS, the committee desires to continue to have public information services provided; and

WHEREAS, Margaret R. Colombo has satisfactorily performed such services previously for the committee; and

WHEREAS, the authorized budget for Margaret Colombo has been expended; and

WHEREAS, the committee will continue to need such services for the next six months; and

WHEREAS, the Minnesota department of natural resources has provided funding to the committee; and

WHEREAS, the McQuade protected access committee recommends the agreement with Margaret R. Colombo be amended for her continue services.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to increase existing Agreement No. 17222 with Margaret R. Colombo for public information services in an amount not to exceed \$4,500 payable from Fund 100, Agency 105, Org. Misc. 2020, Obj. Ms. 26; said agreement to be substantially in the form of Public Document No. 98-0727-15 on file in the office of the city clerk. The term of the contract shall be from January 1, 1999 to June 30, 1999.

Resolution 99-0173 was adopted upon the following vote:

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

Nays: Councilors Hardesty and Swapinski -- 2

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

WHEREAS, the McQuade protected access committee continues to make progress on the project; and

WHEREAS, the administrative services will be required for the next six months in order for the committee to complete its current work; and

WHEREAS, an existing agreement with Cheryl Erickson has been completed; and

WHEREAS, the authorized project budget for Cheryl Erickson has been expended; and

WHEREAS, the McQuade protected access committee recommends Cheryl Lynn Erickson be contracted for her services.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are hereby authorized to increase existing Agreement No. 17153 with Cheryl Lynn Erickson for administrative services by an amount not to exceed \$8,000 payable from Fund 100, Agency 015, Org. Misc. 2020, Obj. Ms. 26; said agreement to be substantially in the form of Public Document No. 98-0727-16 on file

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

in the office of the city clerk. The effective term of the contract shall be from January 1, 1999 to June, 30, 1999.

Resolution 99-0174 was adopted upon the following vote:

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

Nays: Councilors Hardesty and Swapinski -- 2

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for furnishing and delivering one motor grader for the street maintenance division in accordance with specifications on its low specification bid of \$175,614.24, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2009, Object V907.

Resolution 99-0210 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

PARKS AND RECREATION COMMISSION

Candace Brown (District 5) for a term expiring February 13, 2002, replacing Gene McKeever.

Eric Larson (District 8) and Harvey Winthrop (District 9) for terms expiring February 13, 2000, replacing Robert Pearson and Donald Wicklund who resigned.

Resolution 99-0182 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0183, by Councilor Rapaich, confirming appointment of Carol Thomson to planning commission replacing Stanley Gershgol, was introduced for discussion.

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

- - -

Resolution 99-0214, by Councilor Rapaich, confirming appointments of James Prest replacing Mark Danielson, Carolyn Franklin replacing Lorene Glenn and Sheldon Grafstein replacing Rodrick Hill to human rights commission, was introduced for discussion.

Councilor Rapaich moved to table the resolution for interviews, which motion was seconded and unanimously carried.

- - -

Resolution 99-0166, by Councilor Prettner Solon, authorizing the building official to abate certain nuisances by removal of structurally unsound buildings in the city of Duluth, was introduced for discussion.

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

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0165, by President Keenan, authorizing the increase in rental fees at Wade Stadium, was introduced for discussion.

Councilor Swapinski expressed his opposition to the resolution because of the large increase in fees. He continued by saying that while he understands that the fees have not been raised since 1986, it is unfair to the organizations using the facility to incur such a large increase at one time. Councilor Swapinski also stated his intent to earmark the monies from the Dukes' agreement at Wade Stadium for the special league fund in order to properly maintain the facility.

Councilor Gilbert stated that park property should be open to the public and has a difference of opinion with the administration on this issue as a priority.

Councilor Hales stated this resolution is geared to large baseball tournaments and not geared towards younger kids, as there are other fields in the city where the youth can play. She continued by saying that this resolution is timely and that the city needs to look at all of the services in the parks.

Councilor Hogg stated that there are a lot of policy issues involved with the parks and should be discussed in a committee meeting.

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

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Resolution 99-0149, by Councilor Swapinski, amending the 1999 street improvement program by adding to such program a list of streets scheduled for crack sealing and bituminous overlay, at an estimated cost of \$300,000 (City Job No. 9094RS99), was introduced for discussion.

Councilor Prettner Solon stated that she is not opposed to this resolution, but stated that there is more regarding the street improvement program and the community investment trust fund that needs to be clarified before the council moves forward with it.

Councilor Prettner Solon moved to table the resolution for one week, which motion was carried upon the following vote:

Yeas: Councilor Edwards, Gilbert, Hales, Hardesty, Hogg, Prettner Solon, Rapaich and President Keenan -- 8

Nays: Councilor Swapinski -- 1

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Veit and Company, Inc., be and hereby is awarded a contract for demolition of three buildings located in the Lincoln Park district for the public works department in accordance with specifications on its low specification bid of \$103,130, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2165, Object 5530.

Resolution 99-0161 was unanimously adopted.

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0175, by Councilor Swapinski, to authorize advance encumbrance of municipal state aid funds, in an amount up to \$2,300,000, was introduced for discussion.

Councilor Hogg stated that, although this procedure is permitted by the state and it is not the first time the city has done it, it limits the city's ability to meet unforeseen future needs.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

President Keenan voiced concern that the city has spent so much of its state aid money on the Aerial Lift Bridge project, that it has exhausted much of the money that could be used on other streets.

Resolution 99-0175 was adopted as follows:

BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth is planning on implementing municipal state aid street project(s) in 1999 which will require state aid funds in excess of those available in its state aid construction account; and

WHEREAS, said city is prepared to proceed with the construction of said project(s) through the use of advance encumbrances from the general state aid construction account to supplement the available funds in their state aid construction account; and

WHEREAS, repayment of the funds so advanced will be made in accordance with the provisions of Minnesota Statutes 162.14, Subdivision 6 and Minnesota Rules, Chapter 8820.

NOW, THEREFORE, BE IT RESOLVED, that the commissioner of transportation be and is hereby requested to approve this advance for financing approved municipal state aid street Projects of the city of Duluth in an amount up to \$2,300,000 in accordance with Minnesota Rules 8820.1500, Subparagraph 9, and to authorize repayments from the following year's accruals to the construction account of the municipal state aid street fund for said city.

Resolution 99-0175 was adopted upon the following vote:

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

Nays: Councilor Hogg -- 1

Approved March 15, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0216, by Councilor Swapinski, awarding contract to Northland Constructors of Duluth, Inc., for Lakewalk east trail extension, in the amount of \$321,949.05, was introduced for discussion.

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

Burt Olson spoke against the resolution as it would allow the Lakewalk to extend up 28th east through his property. He stated that he has a petition signed by 73 people from 46 homes in the Jefferson Street neighborhood opposing the proposed Lakewalk extension of 28th Avenue East. Mr. Olson went on by saying that there has been a lack of communication between the planning division and the neighborhood and that he was not even sure if this project included the improvement of Alexander Street through the neighborhood.

Thomas Peterson, Arlene Olson, Galen Sundeen and Koni Sundquist were opposed to the resolution for the following reasons: concern about what the proposed expansion will do to the neighborhood; parking in the area is extremely limited right now and the project will bring more parking problems; public safety; there has been no communication with the neighborhood on this project until today when they were told of the meeting tonight; the neighborhood is quiet and peaceful and residents do not want it changed by a Lakewalk extension going through their block.

Brian Hanson questioned why the new sidewalks on recently improved 26th Avenue East cannot be used by pedestrians. He also voiced concern that the parking area being proposed is small so that the spill over parking will go up to Jefferson Street, which creates a safety issue. Mr. Hanson requested that the council table this resolution so that the planning division and the neighborhood can work on this together.

Jeff Brown, representing the Duluth Pedestrian Bicycle and Transit Coalition, reviewed that he serves as a volunteer and has worked on the 26th Avenue East extension since its inception in 1994. He emphasized that this organization wants to be considered as a neighborhood friendly group and reviewed that the goal of the project was to resolve the significant bike/pedestrian safety hazard at London Road and 26th Avenue East by providing a safe crossing through a potentially dangerous intersection. He stated that the Lakewalk extension under London Road and the connection to 28th is intended to steer cyclists and pedestrians away from this congested and hazardous area and on to more bike and pedestrian friendly streets and the Lakewalk. Mr. Brown stressed that eliminating the 28th Avenue connection will undermine the integrity of the project and create a whole new set of safety hazards since 26th Avenue has high volume and high speed traffic and parking lots are notorious safety hazards to cyclists. Mr. Brown continued by saying that while there may be some concerns that have not been adequately addressed by the city to the neighborhood, it would be a shame to sacrifice the safety of pedestrians and cyclists and the many years of hard work because of a lack of problem solving. He reviewed that the plan needs to be considered as a whole, as it was funded as a whole, and it would be impossible to delete 28th Avenue without going back to the Minnesota department of transportation (Mn/DOT) and possibly jeopardizing the state money. Mr. Brown encouraged the council to table this resolution for a week to create a plan that will be acceptable to both the neighborhood and the bike/pedestrian group.

Councilor Hardesty questioned if there was a location further east that was on the master bike trail plan where there would be access for a cyclist to get on the trail to prevent some overflow issues on Jefferson Street.

Councilor Swapinski reviewed that the contractor on the project is willing to hold their bid for one more week.

Responding to Councilor Swapinski's questioning, President Keenan stated that if the project does not move forward shortly, the city could lose \$274,000 of federal dollars committed to this project and reviewed that the city has already passed two deadlines with the state on this project.

Dick Larson, public works department director, responded that the city would need to check back with Mn/DOT to see if they can delete the 28th Avenue extension out of the plan and still receive the money for the project. He apologized if the residents feel that there has been a lack of communication, but stated that this project has been going on for approximately three to four years. Mr. Larson continued by saying that there has been an enormous amount of staff time spent on this project with redesigns and negotiations with the railroad authority and Mn/DOT. In the meantime, the staff has been working on other projects, making it hard to keep in constant contact with the residents. He stated the resolution is before the council because the project is a worthy one, as it will allow people to avoid a very busy intersection to get to the Lakewalk.

Responding to Councilor Rapaich's questioning, Bill Majewski, physical planning division, replied that the project started in 1994, that meetings that involved the neighbors were held in 1996 and 1997, and a front page newspaper article was printed in September 1998 with a map explaining the whole project.

Councilor Keenan urged Mr. Larson to modify this project to prevent the city from losing this project. He continued by saying that if this project does not go through, the city will never have a nonmotorized extension to the Lakeside and Lester Park areas.

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

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR PRETTNER SOLON

99-001 - AN ORDINANCE PERTAINING TO THE REGULATION OF TOBACCO; AMENDING SECTIONS 11-2, 11-5 AND 11-10 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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

Cathy LeTourneau spoke for an amendment to the ordinance regarding the smoke shops and requested that clarification be made on the definition of a smoke shop. She also stated that since the city is proposing a stiff penalty for violations, she requested that the compliance checks be conducted by a police officer or an official of the governing body to ensure the checks were done properly. Ms. LeTourneau expressed her concern that the ordinance does not address the people who are breaking the law by purchasing the tobacco products and stated that they should be subject to a fine.

Councilor Hales stated that although this is a community issue, it appears that the ordinance targets only retailers and not the minors that are buying the tobacco products. She continued by saying that the city is remiss in not making stiffer consequences for juveniles.

Councilor Prettner Solon moved to amend Section 3 of the ordinance, paragraphs (a) and (b), to read as follows:

“(a) No person shall offer for sale tobacco in open displays which are accessible to the public without the intervention of a store employee. No business establishment licensed under this Chapter shall sell tobacco in any manner except by having the licensee or an employee of the licensee physically deliver the tobacco to the customer;

(b) It shall be an affirmative defense in any prosecution under this Section for the defendant to show by a preponderance of the evidence that the alleged sale of tobacco took place in an establishment licensed to sell tobacco that:

(1) Holds itself out as a store that sells only tobacco and tobacco-related products;

(2) Prohibits persons under 18 years of age from entering or remaining on the premises and has posted signs at the establishment’s entrance informing customers that they must be at least 18 years old to enter;

(3) Derives at least 90 percent of its revenues from the sale of tobacco or tobacco related products as shown by business records it keeps in the ordinary course of business,” which motion was seconded and unanimously carried.

Councilor Prettner Solon moved to amend Section 2 of the ordinance, paragraph (a) of Section 11-5 of the Duluth City Code, to read as follows:

“(a) Every license issued under this Chapter may be suspended up to 60 days or revoked by the alcoholic beverage board for any cause set forth in paragraph (b) of this Section after a public hearing held for such purpose, notice of which shall be mailed to the licensee at his place of business ten days before the holding of such hearing. Any decision to suspend or revoke a license shall be made in writing. Any licensee aggrieved by a decision of the alcoholic beverage board may appeal such decision to district court as provided in Minnesota Statutes, Section 461.12, Subd. 7,” which motion was seconded and unanimously carried.

Councilor Hogg moved to retable the amended ordinance, which motion was seconded and unanimously carried.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

The following entitled ordinances were read for the first time:

BY COUNCILOR HOGG

99-010 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1998 INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

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BY COUNCILOR EDWARDS

99-009 - AN ORDINANCE AMENDING SECTIONS 41-23 AND 41-24 OF THE CITY CODE RELATING TO THE PROCEDURE FOR AWARDING CONTRACTS BY THE CITY.

- - -

BY COUNCILOR PRETTNER SOLON

99-006 - AN ORDINANCE GRANTING ARROWHEAD EQUIPMENT COMPANY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN PIPES, PUMP ISLANDS AND PUMPS AND A CANOPY IN AND OVER A PORTION OF A UTILITY EASEMENT IN THE TWIN PORTS TRUCK CENTER DIVISION.

- - -

BY COUNCILOR PRETTNER SOLON

99-008 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 37 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B SINGLE FAMILY RESIDENTIAL TO C-1 COMMERCIAL OF PROPERTY LOCATED AT 1315 WEST ARROWHEAD ROAD (FLAIG).

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The following entitled ordinances were read for the second time:

BY COUNCILOR PRETTNER SOLON

99-003 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NUMBERS 20, 23 AND 24 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED ON THE CORNER OF PIEDMONT AVENUE, TRINITY ROAD AND SKYLINE PARKWAY FROM C-1, COMMERCIAL TO C-2 HIGHWAY COMMERCIAL.

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

Mark Carlson reviewed that he has signed a lease for this location to get alot of people to see that Haglund Marine has boats for sale. He continued by saying that the location has been empty for some time and is an eyesore, but he would improve the property with his business. Mr. Carlson stated that he checked to see if he could apply for a special use permit but was told by the planning division it would not fit. He urged the councilors to support the zoning change because all he wants to do is place some boats on an empty piece of property for three years while the city decides what to do with that corner.

Councilor Prettner Solon stated she cannot support this ordinance because once the zoning is changed, it would be hard to rezone backwards. She continued by saying that a C-2 district does not need a site review plan and, if this business would fail, the next business that came on that site might have a large impact on the neighborhood. Councilor Prettner Solon reviewed that this area is under consideration by Mn/DOT since there will be changes to that intersection that might even involve the property being taken by Mn/DOT.

Councilor Hogg reviewed that there was a unanimous denial by the planning commission on this zoning request. He also stated that if the zoning change occurs, it makes the property more valuable and the city is not in the business of improving property value.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Councilor Swapinski stated that there has been talk of improving the Piedmont Avenue corridor for several years and it may not happen for several more years.

President Keenan stated while he supports the idea of the business at this location, this would be spot zoning, which is not good practice, and could come back to haunt the city.

Councilor Hales moved to call the question, which motion failed for lack of a second.

Councilor Hogg questioned if the zoning change could be made with a three year sunset clause.

Councilor Prettner Solon replied that the planning commission denied another zoning change because it would be conditional rezoning.

Ordinance 99-003 failed upon the following vote (Public Document No. 99-0315-26):

Yeas: Councilors Edwards, Gilbert and Swapinski -- 3

Nays: Councilor Hales, Hardesty, Hogg, Prettner Solon, Rapaich and President Keenan -- 6

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BY COUNCILOR PRETTNER SOLON

99-005 - AN ORDINANCE GRANTING ST. MARY'S DULUTH CLINIC (SMDC) MEDICAL CENTER A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN AN EXPANDED SKYWALK OVER EAST THIRD STREET AND A CLINIC DROP OFF AND LOADING AREA ALONG THE SOUTH SIDE OF EAST THIRD STREET BETWEEN FOURTH AVENUE AND FIFTH AVENUE EAST (SMDC).

Councilor Prettner Solon moved to table the ordinance for a committee meeting on April 5, which motion was seconded and unanimously carried.

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BY COUNCILOR PRETTNER SOLON

99-007 (9404) - AN ORDINANCE GRANTING TO CANAL PARK SQUARE, INC., CANAL PARK ANTIQUE MALL FOR A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN AN AWNING OVER THE SIDEWALK AT 310 SOUTH LAKE AVENUE.

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

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BY COUNCILOR SWAPINSKI

99-004 (9405) - AN ORDINANCE COMBINING THE DEPARTMENTS OF PUBLIC WORKS AND WATER AND GAS; AMENDING SECTIONS 2-2, 2-6 AND 48-1 OF THE CITY CODE AND REPEALING SECTION 2-4 OF THE CITY CODE.

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

Tom Allnew stated that while this merger is a good attempt at cost savings, the city should not be in the business of utilities and it would be better for private business to manage the utilities.

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

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

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

- - -

ORDINANCE NO. 9404

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE GRANTING TO CANAL PARK SQUARE, INC.,
CANAL PARK ANTIQUE MALL FOR A CONCURRENT USE PERMIT
TO CONSTRUCT AND MAINTAIN AN AWNING OVER THE
SIDEWALK AT 310 SOUTH LAKE AVENUE.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to Canal Park Square, Inc., their successors and interests, referred to herein as the permittees, to occupy, erect and maintain an awning in that part of South Lake Avenue as the same was dedicated to the use of the public and the plat of Rearrangement of Blocks 7-8, Industrial Division Duluth, on file and of record in the office of the register of deeds in and for the St. Louis County, Minnesota, described as follows: Three feet of South Lake Avenue, adjacent to Lots 1 & 2 and Lot 3 except the south 0.3 feet of the west 98.3 feet, Rearrangement of Blocks 7-8, Industrial Division Duluth, Lake Avenue.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance, 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 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 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 South Lake Avenue and agree that the city of Duluth shall not be liable for damage caused to such 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 awning in said South Lake Avenue.

Section 6. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 25, 1999)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 15, 1999
Approved March 15, 1999
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9405

BY COUNCILOR SWAPINSKI:

AN ORDINANCE COMBINING THE DEPARTMENTS OF PUBLIC WORKS AND WATER AND GAS; AMENDING SECTIONS 2-2, 2-6 AND 48-1 OF THE CITY CODE AND REPEALING SECTION 2-4 OF THE CITY CODE.

The city of Duluth does ordain:

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

Sec. 2-2. Distribution of city affairs among departments; enumeration of departments.

In accordance with the provisions of the Home Rule Charter of the city, as amended, the administration of the city's affairs is hereby distributed among eight departments, as follows:

- (a) Department of parks and recreation;
- (b) Department of finance;
- (c) Department of public works and utilities;
- (d) Department of administrative services;
- (e) Department of libraries;
- (f) Fire department;
- (g) Police department;
- (h) Department of planning and development.

Section 2. That Section 2-4 of the Duluth City Code, 1959, is hereby repealed.

Section 3. That Section 2-6 of the Duluth City Code, 1959, is hereby amended to read as follows:

Sec. 2-6. Department of public works and utilities.

The department of public works and utilities, shall be responsible for all matters relating to the physical properties of the city and for the operation of the water, gas, sewer and stormwater utilities of the city and for all matters relating to the steam utility of the city requiring action by the city.

Section 4. That Section 48-1 of the Duluth City Code, 1959, is hereby amended to read as follows:

Sec. 48-1. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Applicant. Any person or persons applying for water or gas service from the department and any guarantor of payment for such service as provided for in this Chapter.

Department. The department of public works and utilities.

Domestic applicant. A noncommercial or nonindustrial applicant who uses gas solely for purposes other than heat; i.e., cooking, hot water, clothes dryer, etc., and an applicant for water or sewage or both.

Fire service. An unmetered, large capacity water service which is used only for the suppression of fire and which is protected by appropriate backflow preventers to insure that potable water supplies are not contaminated.

High pressure gas line. Any gas line transmitting gas at a pressure in excess of 0.50 pounds per square inch (14 inches water column).

High volume gas service. Service used to provide gas at a rate in excess of 1,000,000 BTU's per hour.

High volume water service. Any service which is capable of providing in excess of 35 gallons of water per minute at water pressure levels which are normal at the location of such service.

House piping. The pipe or system of pipes conveying water or gas from the meter on a house service to the points of use of water or gas.

House service. That portion of a water service which extends from the curb stop controlling the flow through the house service, to and including the meter through which the flow in the house service is measured.

Master box. The primary curb stop on a water service or private line which controls one or more curb stops downstream.

Meter. Meter is a registration device connected directly to a water or gas service line directly registering the amount of water or gas passing through it.

Privately owned service. A water or gas service supplying one or more parcels of private property that has not been accepted by the department as a part of its distribution facilities.

Remote register. A registration device attached to a meter replicating the reading on that meter.

Residential heating applicant. An applicant whose primary use of gas is as fuel for heating of a residence or residential building.

Service. A pipe for conveying an individual supply of water or gas of a premises from the common supply in the main to and including the meter registering the flow of water or gas to the service.

Standard volume gas service. Any gas service capable of using not more than 400,000 BTU's per hour.

Standard volume water service. Any water service which is capable of providing up to 35 gallons of water per minute at water pressure levels which are normal at the location of such service.

Street. A street, avenue, alley or other regularly established and existing public highway or public right-of-way.

Street service. That portion of a water service which extends from its connection with the main to and including the curb stop, which controls the flow through the street service.

Section 5. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 25, 1999)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 15, 1999
Approved March 15, 1999
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 22, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of council meetings held on January 4, 11 and 26, 1999, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0322-06 J & S Partnership, LLP, submitting petition to vacate part of West Michigan Street and part of 32nd Avenue West in O'Hara's Division. -- Assessor

99-0322-09 Citizens Coalition of Gary-New Duluth submitting letter regarding the proposed Demolition Landfill Services, LLC, special use permit (99-0234R). -- Received

99-0322-08 Joseph Maiolo submitting communication (supported by 36 signatures) regarding the proposed Vedder special use permit (99-0235R). -- Received

99-0322-10 Carl Stolpe submitting letter regarding the proposed rezoning of property located at 1315 West Arrowhead Road (99-008-O). -- Received

99-0322-07 The following submitting communications regarding proposed changes in regulations for the sale of tobacco (99-001-O): (a) Lake Superior Brewing Company; (b) Fred and Sharon Lund; (c) Smoke Free 2000 Coalition; (d) Twin Ports Area Youth and Tobacco Coalition. -- Received

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REPORTS OF OFFICERS

99-0322-01 Assessor submitting letter of sufficiency of petition to vacate a triangular encroachment of the building at 1420 London Road on to a portion of the retained easement. -- Received

99-0322-02 Clerk submitting applications to the Minnesota gambling control board for exemption from lawful gambling licenses from: (a) St. James School (raffles) on August 1, November 1, 1999, and February 1, 2000; (b) Women's Association of the Duluth/Superior Symphony Orchestra (raffles) on May 15, 1999. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-0322-03 Lawful gambling commission minutes of: (a) January 12; (b) January 22; (c) February 9, 1999, meetings. -- Received

99-0322-04 Planning commission minutes of: (a) January 27; (b) February 24, (c) March 19, 1999 (draft), meetings. -- Received

99-0322-05 Sanitary sewer board of WLSSD minutes of March 1, 1999, meeting. -- Received

99-0322-21 Special assessment board reports, findings and recommendations regarding proposed: (a) Sanitary sewer in Grand Avenue Place from Gogebic Street to 230 feet southwesterly; (b) Construction of bituminous overlay on Blackman Avenue from MacFarlane Road to Arrowhead Road and MacFarlane Road from Blackman Avenue to Howard Gnesen Road. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Darlene Virta expressed her concern regarding the Women's Coalition special use permit, at 20th Avenue East and Seventh Street, and a request to increase it by 56 percent. She noted that the planning staff had originally interpreted that they would need to come back to the city council for further approval. Ms. Virta questioned why, at a subsequent meeting with the city attorneys office and the planning division, they determined that they did not need to come back to the city for this 56 percent increase and the building of a garage, that was not originally presented.

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Tom Allnew expressed his concern over the use of American troops in Kosovo and urged support for petitions that he is proposing that would support peace in that country.

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RESOLUTIONS TABLED

Councilor Prettner Solon move to remove Resolution 99-0166, authorizing the building official to abate certain nuisances by removal of structurally unsound buildings in the city of Duluth, from the table, which motion was seconded and unanimously carried.

Resolution 99-0166 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the building official of the city of Duluth duly issued condemnation orders against the following parcels of property, grounds of condemnation being the buildings are structurally unsound, open to trespass, and a menace to the neighborhood; and

WHEREAS, notices of condemnation were served as follows:

- Parcel 1 - 706 West Third Street, aka Lot 6, Blk. 25, Scovells Rearrangement Blk. 25 Duluth Proper Third Division, by certified mail on James J. Webster, 706 West Third Street, Duluth, MN 55806, signed by J.J. Webster on December 19, 1997; and
- Parcel 2 - 2420 West First Street, aka west ½ of Lot 394, Blk. 49, Duluth Proper Second Division, by certified mail on Scott Occhino, Land Staff Appraiser, Land Department, Room 607 Government Service Center, 320 West Second Street, Duluth, MN 55802-1495, signed by Lynn Kamphenkel on December 7, 1998; and
- Parcel 3 - 2709 West Second Street, aka east ½ of Lot 437, Blk. 84, Duluth Proper Second Division, by certified mail on Darlene Ranthum, 2711 West Second Street, Duluth, MN 55806, signed by Darlene Ranthum on December 11, 1998; and
- Parcel 4 - 3720 West Second Street, aka Lots 6 thru 9, Blk. 8, Merritts Addition to Duluth, by certified mail on Natasja Silvia Breck, 3720 West Second Street, Duluth, MN 55806, and returned marked "unclaimed" and to Armand C. and Dawn R. Johnson, 15 West Redwing Street, Duluth, MN 55803, signed by Dawn R. Johnson on November 20, 1998, and to Merle Klask, address unknown, and by legal notice in the Duluth News-Tribune to Natasja Silvia Breck, Merle Klask, and Armand C. and Dawn R. Johnson on November 26 and 27, 1998; and
- Parcel 5 - 4023 West Fourth Street, aka Lot 26, Blk. 6, Chandler Park Addition to Duluth, by certified mail on Fred G. Johnson, Jr., 4023 West Fourth Street, Duluth, MN 55807,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

- signed by Fred Johnson on December 10, 1998, and by certified mail on Joan Chesser, Senior Adult Services, 320 West Second Street, Duluth, MN 55802, signed by Lynn Kamphenkel on December 7, 1998, and by legal notice in the Duluth News-Tribune to Joann Olson, address unknown, on December 10 and 11, 1998; and
- Parcel 6 - 4716 Decker Road, aka W ½ OF N ½ OF N ½ OF N ½ OF SW ¼ OF NE ¼ EX ELY 358 FT, Section 19, Township 50, Range 14, by legal notice in the Duluth News-Tribune to Paul W. Heimstadt, 2352 Pershing Street, Duluth, MN 55811 on February 26 and 27, 1998, and by legal notice in the Duluth News-Tribune to Ona I. Heimstadt, 315 East Gilead Street, Duluth, MN 55811 on February 26 and 27, 1998; and
- Parcel 7 - 1235½ Minnesota Avenue, aka Lot 124, Upper Duluth Minnesota Avenue, by certified mail on Thomas S. Brisco, 1235 Minnesota Avenue, Duluth, MN 55802, and returned marked "unclaimed" and by certified mail on Thomas S. Brisco, Post Office Box 312, Unlakleet, AK 99684, signed by Jennifer M. Brisco on March 16, 1998; and
- Parcel 8 - 18½-20½ East Fifth Street, alley structure only, aka Lot 10, Duluth Proper First Division East Fifth Street by hand delivery on Scott Occhino, Land Staff Appraiser, St. Louis County Land Dept., 320 West Second Street, Duluth, MN 55802, signed by Scott Occhino on February 19, 1999; and
- Parcel 9 - 514 North Eighth Avenue East, aka NLY 21 3/10' of Lots 1 & 2, Blk. 111, Portland Division Town of Duluth, by certified mail on Theodore Smigiel, 6142 South Schelin Road, Culver, MN 55779, signed by Theodore Smigiel on May 8, 1998; and
- Parcel 10 - 1311 East Seventh Street, aka East ½ of Lot 14, Blk. 109, Endion Division of Duluth, by certified mail on Rodger I. and Susan R. Pearson, 3627 Greysolon Road, Duluth, MN 55804, signed by Rodger Pearson on April 7, 1997, and by legal notice in the Duluth News-Tribune to Irene Randall, address unknown, on March 27 and 28, 1997; and
- Parcel 11 - 3702 Lake Avenue South, old house accessory building, also known as Lots 364 and 366, Lower Duluth Lake Avenue, by certified mail on Walter Pietrowski, 3702 Lake Avenue South, Duluth, MN 55802, signed by Walter Pietrowski on December 9, 1995; and
- Parcel 12 - 925 East Fifth Street - GARAGE ONLY - aka Lot 13, Blk. 112, Portland Division, by certified mail on William Parra, Jr., 925 East Fifth Street, Duluth, MN 55805, signed by William Parra on November 2, 1995; and
- Parcel 13 - 1307 North Fifty-Eighth Avenue West - GARAGE ONLY - aka Lots 6, 7 & 8, Blk. 9, West Duluth Sixth Division, by certified mail on Daniel R. Brooks, 1307 North Fifty-Eighth Avenue West, Duluth, MN 55807, and returned marked "unclaimed" and by legal notice in the Duluth News-Tribune to Daniel R. Brooks on May 10 and 11, 1996; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

- Parcel 14 - 9231 Brook Street - GARAGE ONLY - aka Lot 20, Blk. 4, Norton Bayview Outlots Duluth, by certified mail on Lucille L. McNutt, 9231 Brook Street, Duluth, MN 55810, signed by L. McNutt on December 18, 1998; and
- Parcel 15 - 926 North Central Avenue - GARAGE ONLY - aka SLY 5 Feet of Lot 10 and all of Lot 11 and NLY 7 5/10 Feet of Lot 12, Blk. 113, West Duluth Sixth Division, by certified mail on Roger R. and Linda D. Wilander, 926 North Central Avenue, Duluth, MN 55807, signed by Linda Wilander on January 2, 1999; and
- Parcel 16 - 2721 Minnesota Avenue - GARAGE ONLY - aka Lot 169, Lower Duluth Minnesota Avenue, by certified mail on Richard S. Harris, 2721 Minnesota Avenue, Duluth, MN 55802, signed by Richard S. Harris on October 23, 1995;

NOW, THEREFORE, BE IT RESOLVED, that the building official is hereby authorized and directed, forthwith, to take whatever means may be necessary to abate or cause the abatement of the nuisance now existing on the above-named properties, and to make prompt report in writing to the city council with respect to the abatement and removal of such nuisances, together with cost if any thereof, to the city of Duluth.

Resolution 99-0166 was unanimously adopted.

Approved March 22, 1999

GARY L. DOTY, Mayor

- - -

Councilor Gilbert moved to remove Resolution 99-0239, amending Resolution 89-0323 establishing the Duluth economic development authority (DEDA) to require that an expenditure by the authority in excess of \$25,000 must be approved by the city council, from the table, which motion was seconded and unanimously carried.

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

Bob LaFlamme, representing the Senior Federation, expressed his support for the accountability and the safeguards that this resolution would create.

Joel Sipress, member of Bayfront Use Task Force, expressed his support for the resolution and that he felt that there is a sense of arrogance from some DEDA commissioners, and that the elected officials are the ones that are accountable to the citizens.

Councilor Edwards moved to amend the resolution to add the following paragraphs:

“RESOLVED FURTHER, that the council president work with the executive director of DEDA to schedule additional council meetings for the purpose of dealing with DEDA issues when necessary to avoid delay of DEDA projects.

RESOLVED FURTHER, that the council president work with the executive director of DEDA to ensure that financial information of businesses applying for and receiving DEDA assistance shall remain confidential to the fullest extent possible by law,” which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Hogg, Prettnner Solon, Swapinski and President Keenan -- 8

Nays: Councilor Rapaich -- 1

Councilor Rapaich questioned the benefit that would be received by the city by having another meeting to review actions. She noted the openness of the DEDA meetings and the availability of the DEDA staff to answer questions.

Councilor Swapinski noted that there is a similar bill in the legislature now that has similar language relative to the \$ 25,000 limitation.

Councilor Hales expressed her concern regarding the intent of this resolution and questioned what the whole plan is relative to where the city council is going with this situation. She thought that a review process was already developed regarding how to proceed to bring the public in; to review what DEDA has accomplished. In conclusion, she felt that there are checks and balances in place already and that due diligence for economic development projects might not be there with the council's involvement.

Councilor Prettner Solon felt the full ramifications of this resolution have not been studied yet, and to add this step after the DEDA does the ground work would add more time and delay to the process. She felt that this change should be studied as to its effect on business development and that it may or may not be a good change. Also she noted that if the councilors want to do this, the council should seriously consider that the council becomes the DEDA and be prepared to put in an extra three hours per meeting so that economic development continues in this community and to keep politics out of the decision making.

Councilor Hogg felt that there has been a growing concern over the years over the accountability of DEDA and that the response so far has not been satisfactory and that action needs to be taken. He felt that what is proposed here this evening is in the right direction and that all parties need to work together.

President Keenan stated that he does not support this resolution, noting that he feels that DEDA is accountable and that having nonelected officials on the DEDA allows for the incorporation of persons with expertise in the financial and business world. He further felt that, instead of making this change with the \$25,000 limitation, it would make more sense to just make the whole council the DEDA for the efficiency of the process.

Resolution 99-0239, as amended, was adopted as follows:

BY COUNCILORS GILBERT AND SWAPINSKI:

RESOLVED, that Resolution 89-0323 of the city of Duluth, adopted on April 24, 1989, is hereby amended by adding a new paragraph 19 to such resolution to read as follows:

"19. That DEDA shall not enter into an agreement or contract involving an expenditure by DEDA of more than \$25,000 without the prior approval of the council."

RESOLVED FURTHER, that the council president work with the executive director of DEDA to schedule additional council meetings for the purpose of dealing with DEDA issues when necessary to avoid delay of DEDA projects.

RESOLVED FURTHER, that the council president work with the executive director of DEDA to ensure that financial information of businesses applying for and receiving DEDA assistance shall remain confidential to the fullest extent possible by law.

Resolution 99-0239, as amended, was adopted upon the following vote:

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

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

Approved March 22, 1999

GARY L. DOTY, Mayor

- - -

Councilor Swapinski moved to remove Resolution 99-0149, amending the 1999 street improvement program by adding to such program a list of streets scheduled for crack sealing and bituminous overlay, at an estimated cost of \$300,000 (City Job No. 9094RS99), from the table, which motion was seconded and unanimously carried.

Councilor Hogg moved to amend the resolution by adding the following language to the last paragraph:

“which shall be paid from the proceeds of the 1999 street improvement program bonds to be issued later in 1999,” which motion was seconded and discussed.

Councilor Hogg explained that the amendment makes it clear that this overlay will be paid for by bonding as part of the street improvement program and that, by bonding for this, the reduction to the street program income will only be \$75, 000 in the first year and an additional \$75,000 approximately each additional year, up to five years, at which point there should be a revolving fund.

There being no further discussion the amendment carried unanimously.

Resolution 99-0149, as amended, was adopted as follows:

BY COUNCILOR SWAPINSKI:

WHEREAS, by Resolution 98-0307, the city council established the 1999 street improvement program by ordering the construction of certain streets; and

WHEREAS, the city administration has requested that a street preservation component be added to the 1999 street improvement program by designating certain streets for improvement through crack sealing and bituminous overlay;

NOW, THEREFORE, BE IT RESOLVED, that the 1999 street improvement program is hereby amended by adding to such program the improvement by crack sealing and bituminous overlay of the streets listed on the document on file in the office of the city clerk as Public Document No. 99-0322-11, at an estimated cost of \$300,000, which shall be paid from the proceeds of the 1999 street improvement program bonds to be issued later in 1999.

Resolution 99-0149, as amended, was unanimously adopted.

Approved March 22, 1999

GARY L. DOTY, Mayor

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UNFINISHED BUSINESS

BY COUNCILOR HOGG:

RESOLVED, that the standing rules of the city council are hereby amended to read as follows:

Section 1. Rule 1(a) shall be amended as follows:

Rule 1. TIME OF MEETINGS.

(a) Regular meetings of the council shall be held twice monthly on the second and fourth Mondays of each month at 7:30 p.m.; provided, however, that if any such Monday falls on a legal holiday, the meeting scheduled for that day shall be held the following Tuesday at 7:30 p.m.; and provided, further, that if the fourth Monday in December falls on December 24, the regular meeting set for that day shall be held on December 26 at 7:30 p.m. Special meetings may be held as provided for in the City Charter. The president of the council may cancel any regular meeting of the council by giving notice to each member of the council at least three days prior to the scheduled date of such meeting; provided that at least two regular or special meetings shall be held each month.

Section 2. Rule 7 shall be amended as follows:

Rule 7. ORDER OF BUSINESS FOR ALL MEETINGS EXCEPT ANNUAL ORGANIZATION MEETING.

Upon the appearance of a quorum, the council shall then proceed to the business before it in the following order:

1. Roll call;

2. Pledge of allegiance;
3. Approval of minutes of previous meeting(s);
4. Presentation of petitions and other communications;
5. Reports of mayor, administrative assistant and other officers;
6. Reports of boards and commissions;
7. Reports of council committees;
8. Opportunity for citizens to be heard;
9. Unfinished business;
10. New business, motions, resolutions;
11. Introduction and consideration of ordinances;
12. Councilor questions and comments.

Any citizen desiring to be heard, may be given three minutes for such purpose, and with the unanimous consent of members of the council then present, such citizen may be heard on the same subject for such additional period of time as may be permitted by the presiding officer.

Any citizen representing a legally constituted group or organization may be given five minutes. Said representative shall be presenting the official position of the group or organization.

Section 3. A new Rule 7B shall be added to read as follows:

Rule 7B. ORDER OF BUSINESS AT ANNUAL ORGANIZATION MEETING.

Upon the appearance of a quorum, the council shall then proceed to the business before it in the following order:

1. Roll call;
2. Pledge of allegiance;
3. Election of officers;
4. Unfinished business;
5. New business, motions, resolutions;
6. Introduction and consideration of ordinances.

Section 4. Rule 14 shall be amended to read as follows:

Rule 14. COMMITTEES.

All committees shall be appointed by the presiding officer.

Resolution 99-0228 was unanimously adopted.

Approved March 22, 1999

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

Councilor Edwards move to remove Resolution 99-0254 from the agenda and refer it to the administration, which motion was seconded and unanimously carried.

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

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals with any specific restrictions:

Hermantown Volunteer Fire Department, 4015 Airpark Boulevard, with Dale Reno, manager.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0250 was unanimously adopted.
Approved March 22, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license by the liquor control commissioner, subject to departmental approvals, application fee of \$400, and any specific restrictions:

Marshall School, 1215 Rice Lake Road, with Becky Lindberg, manager.

Resolution 99-0251 was unanimously adopted.
Approved March 22, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the on sale intoxicating liquor license, on sale Sunday license, and off sale nonintoxicating malt liquor license for the period ending August 31, 1999, subject to departmental approvals:

Shempco, Inc. (Round Up Bar & Grill), 415 East Fourth Street, transferred from Conmar, Inc. (Round Up Bar & Grill), same address, with Michael Roning, 100 percent stockholder.

Resolution 99-0252 was unanimously adopted.
Approved March 22, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

BUILDING APPEAL BOARD

Tony Vittorio (finance) for a term expiring February 1, 2001, replacing Gene Pelletier who resigned.

Resolution 99-0226 was unanimously adopted.
Approved March 22, 1999
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 easements for pedestrian use as shown and legally described on the Plat of Spirit Cove as pedestrian and utility easements on Lots 3 and 5 Block 4, Spirit Cove Division retaining the utility easements so shown and described, 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 24, 1999, meeting.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the pedestrian easement described above, but retaining said easements for utility purposes, and as more particularly described on Public Document No. 99-0322-12.

BE IT RESOLVED, that the city council of the city of Duluth hereby retains the full width of the above described easement as a utility easement.

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

Resolution 99-0186 was unanimously adopted.

Approved March 22, 1999

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 Second Avenue West between West Ninth Street and Ninth Alley described as: Second Avenue West adjacent to Lot 34, Block 113 and Lot 32 Block 114, 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 the vacation petition at its March 9, 1999, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Second Avenue West: lying south of West Ninth Street/ Skyline Parkway and northerly of a line 10' north of the south line of Lot 32, Block 114, extended westerly as more particularly described on Public Document No. 99-0322-13.

BE IT FURTHER RESOLVED, that a 20 foot wide utility easement ten feet each side of the centerline of Second Avenue West be retained.

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

Resolution 99-0237 was unanimously adopted.

Approved March 22, 1999

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 Skywalk Easement on the second floor of Lake Superior Plaza Building described as: public skywalk space on the second floor of that portion of the Lake Superior Plaza Building along the westerly and southwesterly sides thereof as shown on the scaled drawing in the office of the city clerk as Public Document No. 99-0322-14 and located on Lots Ten (10) and Twelve (12), Block Four (4), Central 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

public hearing; and

WHEREAS, the city planning commission approved unanimously the vacation petition at its March 9, 1999, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation as described above, and as more particularly described on Public Document No. 99-0322-14.

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

Resolution 99-0238 was unanimously adopted.

Approved March 22, 1999

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>
99025	Michael Lees	North 42' of Lots 33, 35 Duluth Proper First Division - East Fifth Street (10-1010-380)	East side of Second Avenue East between Fifth and Sixth Streets (Central Hillside)
99026	Clara Haag	Lot 3, Block 13, Hunter and Markells Grassy Point Addition (10-2420-2350)	West side of 71st Avenue West between Fremont Street and Grand Avenue (West Duluth)
99027	Steven & Cathy Smith	Lot 10 and 11, Block 1, Princeton Place (10-3870-110)	West side of Vermilion Road and Sparkman Avenue (Hunters Park)
99028	Susan Lueck	Lots 13 and 14, Blk 106, Myers Rearrangement of Blocks 105, 106, 127, 128, 142, Duluth Proper Second Division (10-1170-390, 400)	Upper side of Third Street between 18-1/2 and 19th Avenues West (Lincoln Park/West End)
99029	St. Louis County Land Department	South 1/2 easterly 28' Lot 421, Block 79, Duluth Proper Second Division (10-1140-2320)	North side of Second Street between 27th and 27th Avenues West (Lincoln Park/West End)
99030	St. Louis County	Lots 2136-37 (21900),	Between Woodlawn and Lester

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Land Department 2140-41 (21940), 2148 Streets and 50th and 52nd Ave-
(22020), Block 151, Lots nue East (Lakeside/Lester Park)
2152-54 (22060), Block
152, Lots 2232-35 (22860,
880), 2238 (22920), 2240-
41 (22930) and 2248 (23020),
Block 158, Crosley Park
Addition (10-790)

Resolution 99-0240 was unanimously adopted.

Approved March 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper 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 and other good and valuable consideration of open space and park/open space, Fremont Point.

Resolution 99-0258 was unanimously adopted.

Approved March 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that, pursuant to Paragraph 6a. of the Great Lakes Aquarium operating & revenue participation agreement between Lake Superior Center, a private, nonprofit corporation under the laws of the state of Minnesota, the city of Duluth, the Duluth economic development authority, and the Lake Superior Center authority, a public corporation under Laws of Minnesota, 1990, Chapter 535, the city council of the city of Duluth does hereby approve the budget of the aforesaid Lake Superior Center for the year 1999, a copy of which is on file in the office of the city clerk as Public Document No. 99-0322-15.

Resolution 99-0260 was unanimously adopted.

Approved March 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

WHEREAS, the proper city officers are hereby authorized and directed to execute an agreement (Public Document No. 99-0322-16) 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, 1999, through December 31, 1999. Monies collected under said contract shall be deposited in Federal Program Fund 272, Dept. 031, Org. 6309, Revenue Source 4654.

Resolution 99-0229 was unanimously adopted.

Approved March 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

WHEREAS, proposals that have been suggested to merge police and fire consolidation accounts with the PERA police and fire fund would be unfair to some cities and could subject the plans to lawsuits; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

WHEREAS, the League of Minnesota Cities and PERA have worked with consolidation account cities to develop an alternative proposal; and

WHEREAS, such alternative proposal would refund excess assets to cities with positive funding levels and would establish a fixed amortization payment for cities with unfunded liabilities; and

WHEREAS, such alternative proposal would cause no decrease in member benefits, and would offer benefit improvements to many members;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council endorses the proposal set forth in House File 1853 and Senate File 1689 providing for the merger of the police and fire consolidation accounts with PERA police and fire fund.

Resolution 99-0261 was unanimously adopted.

Approved March 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that St. Joseph Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering two tractor backhoe loaders and trade ins for the water and gas department in accordance with specifications on its low specification bid of \$103,669.23, terms net 30, FOB destination, \$51,834.62 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5580 and \$51,834.61 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 99-0206 was unanimously adopted.

Approved March 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Schlumberger Industries, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 500 gas regulators for the water and gas department meter shop in accordance with specifications on its low specification total bid of \$7,721.25, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0543, Object 5227.

Resolution 99-0243 was unanimously adopted.

Approved March 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Schlumberger Industries, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 650 gas meters for the water and gas department in accordance with specifications on its low specification bid of \$38,692.56, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0543, Object 5227.

Resolution 99-0244 was unanimously adopted.

Approved March 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

RESOLVED, that Fisher Controls, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 90 natural gas relief valves and regulators for the water and gas department in accordance with specifications on its low specification bid of \$13,999.02, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0543, Object 5227.

Resolution 99-0245 was unanimously adopted.
Approved March 22, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that D.M.D. - Measurement Operation, Dresser Industries, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 75 natural gas meters for the water and gas department in accordance with specifications on its low specification bid of \$65,118.36, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0543, Object 5227.

Resolution 99-0246 was unanimously adopted.
Approved March 22, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that United Piping, Inc., be and hereby is awarded a contract for construction and installation of a six inch gas main crossing at Commerce Street for the water and gas department in accordance with specifications on its low specification bid of \$5,850, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 99-0255 was unanimously adopted.
Approved March 22, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Hydro Supply Company be and hereby is awarded a contract for furnishing and delivering 717 cold water meters in various sizes for the water and gas department in accordance with specifications on its low specification bid of \$50,445.32, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0543, Object 5227.

Resolution 99-0256 was unanimously adopted.
Approved March 22, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, by Resolution of Intent numbered 98-0833 approved on the 14th of September, 1998, the council did request the administration to prepare plans and specifications for the extension of an eight inch sanitary sewer main from the intersection of Eden Lane and Belmont Road to serve Lots 1 through 6 of Boulevard Terrace First Addition and a six inch ductile iron water main and a two inch P.E.H.P. gas main in East Skyline Parkway from approximately 400 feet to 800 feet easterly of 13th Avenue East; and

WHEREAS, the parties proposed to be assessed for this project have agreed to waive their 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 \$82,000, 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 requirements of Section 60 of the Charter of the City of Duluth.

Resolution 99-0257 was unanimously adopted.

Approved March 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, by the Resolution of Intent numbered 99-0213, the council did request the administration to prepare plans and specifications for the construction of a sanitary sewer in Grand Avenue Place from Gogebic Street to 230 feet southwesterly (City Job No. 9161SA99); 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 \$13,665, payable from the special assessment fund 810, agency 038, organization 5316, 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 No. 99-0322-21(a), and which description is hereby incorporated herein by reference to Public Document No. 99-0322-21(a); that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all 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 99-0231 was unanimously adopted.

Approved March 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for rental of ten motor graders for the street maintenance division in accordance with specifications on its low specification bid of \$239,944.50, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5415.

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 99-0247 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved March 22, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth established the initial municipal state aid systems 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 the streets described as follows be and hereby designated as municipal state aid streets of said city of Duluth, subject to the approval of the commissioner of transportation of the state of Minnesota:

- (1) 21st Avenue East - End Bridge to London Road (+)0.11 miles;
 - (2) 45th Avenue East - Superior Street to Glenwood Street (+)0.92 miles;
 - (3) Mall Drive - Haines Road to Maple Grove Road (+)0.62 miles;
 - (4) Burning Tree Road - Mountain Shadow Drive to Maple Grove (+)0.21 miles;
 - (5) Burning Tree Road - Maple Grove Road to Mall Drive (+)0.23 miles;
 - (6) Mountain Shadow Drive - Burning Tree Road to Mall Drive (+)0.18 miles;
 - (7) First Street/Superior Street - 46th to 40th Avenue West (+)0.57 miles;
 - (8) Airport Road - Haines Road to Rice Lake Road (+)1.04 miles;
 - (9) Anderson Road - Haines Road to Decker Road (+)0.50 miles;
 - (10) Anderson Road - Decker Road to Trinity Road (TH 53) (+)0.36 miles;
 - (11) Sixth Avenue East - Central entrance to 13th Street (+)0.29 miles;
 - (12) 13th Street - Seventh Avenue East to Kenwood Avenue (+)0.20 miles;
 - (13) Kenwood Avenue - 13th Street to Martha Street (+)0.12 miles;
- Total (+)5.35 miles.

Resolution 99-0248 was unanimously adopted.

Approved March 22, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the proper city officers are authorized and directed to execute an agreement (Public Document No. 99-0322-17) for services and a satellite police station lease with the housing and redevelopment authority of Duluth under which the city will provide a satellite police station in the Tri Towers complex and will perform policing services as set forth in the agreement, in consideration of reimbursements to be paid to the city by the housing and redevelopment authority not exceeding \$160,000.

RESOLVED FURTHER, that reimbursement monies received under this contract shall be deposited in Fund 215, Agency 200, Account No. 2437.

Resolution 99-0230 was unanimously adopted.

Approved March 22, 1999
GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 99-0266, by Councilor Hogg, declaring intent to proceed with Technology Village parking ramp, to proceed with repairs to Depot parking ramp and Superior Street ramp, and to

issue general obligation tax increment bonds in an approximate amount of \$3,900,000 to finance a portion of the costs thereof, was introduced for discussion.

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

K.L. Lewis expressed her concern that the city should first consider utilizing a vacant lot diagonal to this proposed lot and supported repairing the ramps listed.

Resolution 99-0266 was adopted as follows:

BY COUNCILOR HOGG:

WHEREAS, the Duluth economic development authority ("DEDA"), the city of Duluth (the "city") and others have embarked on a public-private partnership in the construction of a project known as the "Technology Village project"; and

WHEREAS, one component of the Technology Village project is the construction of a parking facility by the city on First Street between Lake Avenue and First Avenue East (the "Technology Village ramp"); and

WHEREAS, the city owns and operates parking facilities near the depot (the "depot ramp") and the city's parking ramp located at 121 East Superior Street (the "Superior Street ramp"), which are in need of repairs and improvements in the approximate amount of \$300,000; and

WHEREAS, the city and DEDA intend to finance a portion of the Technology Village ramp and the improvements to the depot ramp and the Superior Street ramp with approximately \$3,900,000 of general obligation tax increment bonds; with approximately \$1,000,000 of the principal and interest on such bonds to be paid with tax increment revenue from Tax Increment Financing District No. 19 and \$2,550,000 of the principal and interest on such bonds to be paid from parking revenues from the Technology Village ramp and Superior Street ramp, \$350,000 of the principal and interest on such bonds to be paid from parking revenues of the Superior Street ramp; and

WHEREAS, the city is authorized to issue general obligation tax increment bonds pursuant to Minnesota Statutes, § 469.178 (the "act").

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

Section 1. The city council hereby declares its intent to proceed with the construction of the parking facility for the Technology Village project and the repairs to the depot ramp and the Superior Street ramp.

Section 2. The city council hereby determines that it is necessary and expedient to issue general obligation tax increment bonds pursuant to the act in the amount of approximately \$3,900,000 to provide a portion of the construction costs of the Technology Village ramp, the depot ramp and the Superior Street ramp and to pay certain expenses incurred in the issuance of the bonds. It is the intention of the council that approximately \$1,000,000 of such bonds, and interest thereon, will be paid with tax increment revenue generated from Tax Increment Financing District No. 19 and approximately \$2,550,000 of such bonds, and interest thereon, will be paid with revenues from the Technology Village ramp and \$350,000 of such bonds and interest thereon will be paid with revenues from the Superior Street ramp.

Section 3. The city council further determines to utilize other legally permissible and available funds for any costs not covered by the proceeds of such bonds.

Section 4. The city council hereby authorizes the city staff to proceed with the projects and to work with the city's financial adviser and bond counsel to arrange the sale of such bonds, including, if necessary, working with DEDA staff on amendment of the tax increment plans to authorize such financing. Final terms of the development of the projects and the issuance of the bonds shall be set forth in resolutions of the city council.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0266 was unanimously adopted.
Approved March 22, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Carl Bolander and Sons Company be and hereby is awarded a contract for rock removal and site preparation as well as demolition of U.S. Bank building located at Lake Avenue and First Street for the for the Technology Center parking site in accordance with specifications on its low specification bid of \$325,162, terms net 30, FOB job site, payable out of Technology Village Project Fund 425, Dept./Agency 020, Organization 4500, Object 5530, to be reimbursed and/or paid by/or from D.E.D.A. funds/bond proceeds.

Resolution 99-0187 was unanimously adopted.
Approved March 22, 1999
GARY L. DOTY, Mayor

- - -

Resolution 99-0253, by Councilor Edwards, approving the transfer of the on sale intoxicating liquor license, on sale Sunday license, additional bar license and dancing license from SS&P of Duluth, Inc. (Western Tavern), 2801 West Superior Street, transferred to Western Development, Inc. (Western Lounge), same address, was introduced for discussion.

Councilor Gilbert stated that he would be abstaining because he is counsel to one of the parties in this transfer.

Resolution 99-0253 was adopted as follows:

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the on sale intoxicating liquor license, on sale Sunday license, additional bar license, and dancing license for the period ending August 31, 1999, subject to departmental approvals:

Western Development, Inc. (Western Lounge), 2801 West Superior Street, with Cliff Lanthier, 100 percent stockholder, transferred from S S & P of Duluth, Inc. (Western Tavern), same address.

Resolution 99-0253 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Gilbert -- 1

Approved March 22, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0234, by Councilor Prettner Solon, granting a special use permit to Demolition Landfill Services, LLC, for a demolition debris land disposal facility on property located at 1100 West Gary Street, was introduced for discussion.

Administrative Assistant Hartl suggested that the resolution be referred back to the administration at this time, and that the administration would be supplying additional information to the council to assist them with their deliberations.

Councilor Prettner Solon expressed her concern that the council act on the resolution before the 60 day deadline, to which Mr. Hartl stated that the administration would have the resolution and other information back to the council before the deadline.

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

- - -

Resolution 99-0235, 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.

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

Dave Jordet noted the communication (Public Document No. 99-0322-08) of about 35 residents that do not support the increase that would allow up to ten residents and would request some parking, building and maintenance issues are attended to.

Rosemary Kohn questioned if a zoning change would be needed for an increase of residents from six to ten. She stated that she supports keeping the property as a residential unit, which allows for care up to six individuals. Ms. Kohn felt that increasing this to ten residents would create a business attitude which is contrary to the nature of the neighborhood.

Melanie Kucera, resident nurse of September House, reviewed the issues that were raised two years ago when the approval was given for the six residents. She noted that since then there have not been any substantial problems in the areas of concern that were stated. Ms. Kucera noted that there will be no visible appearance changes to reflect this as a business with the increase from six to ten residents.

Sue Vedder stated she has tried to make this a home for the residents where their needs could be taken care of in a personal manner. She felt that some neighbors have infringed on her privacy and up to this time there has been no complaints, and now suddenly there have been anonymous complaints that are not substantiated.

To Councilor Edwards' questioning, Ms. Vedder stated that she is not likely to have the full ten residents, if this is approved, just that she would have the flexibility to take in a couple more residents, especially when a short respite care is needed, noting that they are always filled up and when a vacancy occurs, it is immediately filled. She continued by saying that with this approval she would be increasing the staff and thus be able to have more outside activities.

Kali Vedder noted how their home gives the resident a home style residence instead of the nursing home style. She added that they watch the residents very carefully and that this type of residence is an asset instead of a threat.

Edith Mary Jordet read a letter from Jane McGiffert, noting that this is a form of spot zoning for activity like this and that traffic, lawn care and property values are the concerns.

Councilor Prettner Solon noted that the applicant is licensed by the state and thoroughly inspected by the health department. She added that she supports this application, noting that some years ago she lived in this neighborhood when there was a group home next to her property and that they were great neighbors and also that she ran a half-way home for 12 women where there were very few complaints. Councilor Prettner Solon noted that there needs to be, in the future, choices for the elderly.

Councilor Hogg expressed concern over the rights of the neighbors and noted that in the second paragraph of the resolution it states that "the approval was made because of the planning commission findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed," and he noted that he could not find anything in the minutes of the planning commission reflecting those findings. He further noted the language of Section 50-32.2 of the City Code which states that the above-stated findings are to be addressed by the planning commission.

Council Hogg moved to table the resolution and to refer it back to the planning commission in order that the findings of the City Code can be addressed, which motion was seconded and unanimously carried.

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Resolution 99-0236, by Councilor Prettner Solon, vacating a portion of walkway easement in the Holiday Center (Lyric Block), was introduced for discussion.

Councilor Prettner Solon stated that in addition to the vacation, DEDA has approved a loan to the Holiday Center owners to remodel the space and that the developer will make a "two to one" investment towards the remodeling.

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

Rod Stenberg voiced his support for the resolution and noted that, if this potential tenant is not secured, the space will be vacant for some time. He added that Duluth needs to be viewed as a city that is easy to work with.

Bruce Stender reviewed the history the Holiday Center relative to the ground level space between the escalator and McDonald's, noting the changes in tenants and the vacancies that have occurred. He went over the details of the developer needing 25,000 square feet and the access up to Superior Street. Mr. Stender also noted the developer will invest approximately \$1,350,000 to remodel this location. Regarding the specifics of the Office Depot organization, Mr. Stender stated that this company did \$9 billion in sales last year, has a company matched 401K plan, a discounted stock purchase plan and a complete benefits plan, etc., for its employees. In conclusion, he noted that Home Depot's philosophy of respect for their employees and customers is why they would be an asset to the Downtown business community.

Michael Conlan, Greater Downtown Council executive director, noted that the vacant space has been a part of the problem in the Holiday Center for years in that there has been certain inappropriate behaviors and loitering, and stated that this Class "A" tenant will solve many of the problems that exist today.

To Councilor Swapinski's comments, Mr. Conlan stated that approximately \$56 million of the \$91 - \$100 million that is currently invested in three major Downtown projects, is public dollars.

Roger Wedin noted the uniqueness of this particular development, in that this will be an once in a life time opportunity to enhance Downtown retail activity.

Ann Marxhausen voiced her support for the need of retail development like this for the Downtown area.

John Lawien stated that, from a business standpoint, having businesses fronting on Superior Street makes good economic sense and he supports this resolution.

Jim Schwerdt stated the existing recessed store front design was popular some 20 years ago but does not work very well for today's business tenants. He noted that it is important to remember that the amount of expense associated with this is not that large, when one considers that it brings in a new tenant and the additional amount of revenue that will come from additional businesses in the next 20 years.

Tom Allnew stated that he does not support this resolution, noting that this public area should be auctioned off so the public would see a financial gain from the release of this property.

Matt Boo stated that as a retailer across the street from this development, he supports this 100 percent.

Karen L. Lewis questioned what options McDonald's would have and what are the weekend hours for this new store, and she further noted that the closure of the stairway close to McDonald's serves a purpose.

President Keenan noted that McDonald's would be served a 90-day notice, that the store would probably have Saturday hours and that the stairway is not accessible and therefore would be eliminated.

To Councilor Hardesty's questioning, Cynthia Albright, planning and development department acting director, reviewed the mission statement of DEDA to the Downtown and specifically noted the belief of what an anchor tenant brings to the Downtown, in that there will be additional benefit to the Downtown community through growth and that is worth the forgiveableness of the loan from DEDA.

Councilor Gilbert noted that there needs to be a sensitivity to the bus stop location and that McDonald's serves some individuals that do not have any other locations for socializing.

Resolution 99-0236 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of the walkway easement as shown on the scaled drawing (Public Document No. 99-0322-18) on the first floor level of the property known as the Holiday Center, which property is legally described as: All of Lots 40 and 42, West First Street, Duluth Proper, First Division and the westerly 40 feet of Lot 38, West First Street, Duluth Proper First Division. All of Lots 33, 35, 37, 39, 41, 43, 45 and 47, West Superior Street, Duluth Proper, First Division. All of First Alley between the common extended west line of Lot 42, West First Street, Duluth Proper, First Division and Lot 41, West Superior Street, Duluth Proper, First Division and the common east line extended of the westerly 40 feet of Lot 38, West First Street, Duluth Proper, First Division and the westerly 40 feet of Lot 37, West Superior Street, Duluth Proper, First Division. All of Lots 40 and 42, West First Street, Duluth Proper, First Division and the westerly 40 feet of Lot 38, West First Street, Duluth Proper, First Division; and

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

WHEREAS, the city planning commission approved the vacation petition at its March 9, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the skywalk easement described above and as more particularly described on Public Document No. 99-0322-18.

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 walkway easement to be vacated.

Resolution 99-0236 was unanimously adopted.

Approved March 22, 1999

GARY L. DOTY, Mayor

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Resolution 99-0249, by Councilor Prettner Solon, requesting the board of county commissioners of St. Louis County to withhold from sale certain tax forfeited parcels (annual list - lands tax forfeited in 1998), was introduced for discussion.

Councilor Hogg noted that he has reviewed with the acting physical planning division manager the need for the council to meet in the future on the policy of land banking and keeping tax forfeited lands.

Resolution 99-0249 was adopted as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to withhold from sale for the public interest and to classify as "conservation lands" the following parcels from the county auditor's list of properties which have been declared tax-forfeited and title thereto vested in the state:

<u>Legal Description</u>	<u>Location</u>	<u>Reason</u>
Lot 37, including part of vacated avenue adjacent, Auditors Plat Lester Park garden tracts (10-90-370)	West side of Lakeside Avenue approximately 500 feet north of Lester Street (Upper Lakeside/Lester Park)	land packaging/replat
Southerly 25 feet of Lots 17 and 19, Duluth Proper First Division East First Street (10-930-180)	East side of First Avenue East between First Street and alley (Downtown)	land packaging
Lot 26, Blk. 2, Edgebrook Division of Duluth (10-1390-310)	North side of Edgewood Avenue between Sargent Place and Occidental Boulevard (Lester Park)	land packaging for recreation complex/open space buffer
Lots 25-28, Blk. 4, Kensington Place Addition to Duluth (10-2620-1690)	East side of Stanford Avenue (Duluth Heights)	consolidate with Independent School District #709 land
Lots 29 - 32, Blk. 4, Kensington Place Addition to Duluth (10-2620-1730)	East side of Stanford Avenue (Duluth Heights)	consolidate with Independent School District #709 land
Outlot C, Northland Estates city of Duluth (10-3452-490)	South side of Glenwood Street and east of Ridge Road (Upper Lakeside)	drainage basin
Lot 12, Blk. 13, Stowells Addition to West Duluth (10-4220-1940)	West side of 67th Avenue West between Bristol and Roosevelt Streets (Upper Fairmount DW&P)	land packaging
Lots 3 and 4, Blk. 152, West Duluth Fifth Division (10-4510-5990)	West side of Central Avenue between Cody Street and Grand Avenue (Old DW&P ROW) (Spirit Valley)	DW&P trail
Lot 5, Blk. 152, West Duluth Fifth Division	West side of Central Avenue between Cody Street and Grand	DW&P trail

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

(10-4510-6010)	Avenue (Old DW&P ROW) (Spirit Valley)	
Lot 13 - 16 except rail- road right of way , Blk. 155, West Duluth Fifth Division Street (10-4510-6440)	Intersection of Grand Avenue, Central Avenue and Cody Street (Spirit Valley)	extension of Memorial Park
NW1/4 of NE1/4, Sec. 2, T50R14 (10-2710-279)	South side of Austin Street, west of Minneapolis Avenue (Woodland)	street right-of-way

Resolution 99-0249 was unanimously adopted.
Approved March 22, 1999
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 with the office of the city clerk as Public Document No. 99-0322-19, with LHB Engineers & Architects, Inc., for construction engineering services, including reimbursable costs and all required testing, related to the construction of the Technology Village parking ramp in the amount of not to exceed \$451,000, payable from Technology Village Project Fund 425, Dept./Agency 020, Organization 4500, Object 5530, to be reimbursed and/or paid by/or from DEDA funds/bond proceeds.

Resolution 99-0262 unanimously adopted.
Approved March 22, 1999
GARY L. DOTY, Mayor

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Resolution 99-0241, by Councilor Prettnner Solon, announcing the city of Duluth's participation in National Community Development Week 1999, was introduced for discussion.

Councilor Prettnner Solon noted that the city has 25 years of community development program funding that has had a tremendous impact and thanked the neighborhood coalitions that have worked so hard in these programs.

Resolution 99-0241 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the week of March 29 - April 4, 1999, has been designated as National Community Development Week; and

WHEREAS, the city of Duluth is a participant in the community development block grant program which funds a myriad of social service, economic development and housing programs within the city; and

WHEREAS, in the city of Duluth and in communities throughout the nation, twenty-five years of community development block grant program funding has developed a strong network of relationships between the city of Duluth, residents of the city and the many nonprofit agencies that provide services and help make possible the city's commitment to those neighborhoods; and

WHEREAS, the city of Duluth recognizes that the community development block grant program is a partnership of federal, state, and local government, business, nonprofit and community efforts, and that services funded by the federal community development block grant

program, administered by local governments and often delivered by local nonprofit organizations, rely heavily on the dedication of and good will of our combined efforts.

NOW, THEREFORE BE IT RESOLVED, that during National Community Development Week 1999, the city of Duluth will give special thanks and recognition to all participants whose hard work and devotion to the community and their low- and moderate-income residents help insure the quality and effectiveness of the community development block grant program.

BE IT FURTHER RESOLVED, that the city of Duluth hereby petitions the U.S. Congress and administration to recognize the outstanding work being done locally and nationally by the community development block grant program and its vital importance to the community and to the people who live in its lower income neighborhoods.

BE IT FURTHER RESOLVED, that city staff convey copies of this resolution to the appropriate elected and appointed officials of the federal government and that the city of Duluth's name be added to the roll of those committed to the preservation and full funding of the community development block grant program and maintenance of its essential features during the next session of Congress.

Resolution 99-0241 was unanimously adopted.

Approved March 22, 1999

GARY L. DOTY, Mayor

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Resolution 99-0232, ordering the construction of a bituminous overlay on Blackman Avenue from Macfarlane Road to Arrowhead Road (City Job No. 9154RS98) at an estimated cost of \$62,414 and Resolution 99-0233, ordering the construction of a bituminous overlay on Macfarlane Road From Blackman Avenue to Howard Gnesen Road (City Job No. 9153RS98) at an estimated cost of \$138,000, by Councilor Swapinski, were introduced for discussion.

Councilor Swapinski noted that the city engineer is working with these residents on various options. He moved to table the resolutions at this time, which motion was seconded and unanimously carried.

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Resolution 99-0242, by Councilor Swapinski, awarding contract to M-R Sign Company, Inc., for approximately 1,000 sign posts, in the amount of \$6,809.05, was introduced for discussion.

Councilor Swapinski noted that the resolution was removed from the consent because there have been some changes that are noted in the replacement resolution and would support the replacement resolution as presented.

Resolution 99-0242 was adopted as follows:

BY COUNCILOR SWAPINSKI:

RESOLVED, that M-R Sign Company, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 1,000 sign posts for the traffic operations division in accordance with specifications on its low specification bid of \$6,809.05, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5226.

Resolution 99-0242 was unanimously adopted.

Approved March 22, 1999

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR PRETTNER SOLON

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

99-001 (9406) - AN ORDINANCE PERTAINING TO THE REGULATION OF TOBACCO; AMENDING SECTIONS 11-2, 11-5 AND 11-10 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Councilor Prettner Solon moved to amend Section 2 of the amended ordinance, paragraph (d) of Section 11-5, to read as follows:

“(d) If it appears that a licensee or the licensee’s employees acting under the scope of the license have sold tobacco to persons under 18 years of age or otherwise violated this Chapter on four separate occasions during any 24 month period, the alcoholic beverage board must set a disciplinary hearing for the licensee. If, at the hearing, it is shown that the licensee or licensee’s employees did sell tobacco to persons under 18 years of age or otherwise violated this Chapter on four separate occasions in a 24 month period, the alcoholic beverage board must revoke the license. In addition, the licensee shall be ineligible to apply for a cigarette license in the next succeeding license year,” 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.

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The following entitled ordinances were read for the second time:

BY COUNCILOR HOGG

99-010 (9407) - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1998 INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

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

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BY COUNCILOR EDWARDS

99-009 - AN ORDINANCE AMENDING SECTIONS 41-23 AND 41-24 OF THE CITY CODE RELATING TO THE PROCEDURE FOR AWARDING CONTRACTS BY THE CITY.

Councilor Hogg moved to amend the ordinance by amending Sec. 41-24(c) to add the following language:

“provided, that contracts for more than \$10,000 with sole source providers or for which only one complete responsive bid was received shall be awarded only after authorization by the city council,” which motion was seconded and unanimously carried.

Councilor Hogg noted that since this amendment is substantial, the ordinance would now be considered as a first reading ordinance.

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BY COUNCILOR PRETTNER SOLON

99-006 (9408) - AN ORDINANCE GRANTING ARROWHEAD EQUIPMENT COMPANY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN PIPES, PUMP ISLANDS AND PUMPS AND A CANOPY IN AND OVER A PORTION OF A UTILITY EASEMENT IN THE TWIN PORTS TRUCK CENTER DIVISION.

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

99-008 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 37 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B SINGLE FAMILY RESIDENTIAL TO C-1 COMMERCIAL OF PROPERTY LOCATED AT 1315 WEST ARROWHEAD ROAD (FLAIG).

Councilor Prettner Solon noted that the Mr. Flaig has stated to City Attorney Dinan that he would accept a 45 day extension beyond the initial period that would have expired on April 7, and therefore moved to table the ordinance for a committee meeting, which motion was seconded and unanimously carried.

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

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9406

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE PERTAINING TO THE REGULATION OF TOBACCO; AMENDING SECTIONS 11-2, 11-5 AND 11-10 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 11-2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 11-2. Same--Fee.

The fee for a license required by this Chapter shall be \$100 per year.

Section 2. That Section 11-5 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 11-5. Same--Revocation or suspension, administrative penalties.

(a) Every license issued under this Chapter may be suspended up to 60 days or revoked by the alcoholic beverage board for any cause set forth in paragraph (b) of this Section after a public hearing held for such purpose, notice of which shall be mailed to the licensee at his place of business ten days before the holding of such hearing. Any decision to suspend or revoke a license shall be made in writing. Any licensee aggrieved by a decision of the alcoholic beverage board may appeal such decision to district court as provided in Minnesota Statutes, Section 461.12, Subd. 7;

(b) The following shall be good cause to revoke or suspend a tobacco license:

(1) That the applicant, its managers or employees violated any ordinance or state or federal statute or regulation which relates to the sale or possession of tobacco or tobacco related devices;

(2) That the applicant, its managers or employees were convicted of a crime that directly relates to the sale of tobacco or tobacco related devices and have not been rehabilitated within the meaning of Minnesota Statutes, Chapter 364;

(3) That the applicant made material misstatements of fact or omissions of fact on its present or past applications;

(4) A refusal by the applicant or its managers or employees to cooperate with the police in any investigation of unlawful tobacco sales;

(c) If a licensee or employee of a licensee sells tobacco to a person under the age of 18 years, or violates any other provision of this Chapter, the licensee shall be charged an administrative penalty of \$75. An administrative penalty of \$200 must be imposed for a second violation at the same location within 24 months after the initial violation. For a third violation at the same location within 24 months after the initial violation, an administrative penalty of \$250 must be imposed, and the licensee's authority to sell tobacco at that location must be suspended for not less than seven days. No penalty or suspension under this paragraph shall be imposed until the licensee has been served personally by mail with notice of the alleged violation and been given an opportunity for a hearing as provided in paragraph (a) of this Section;

(d) If it appears that a licensee or the licensee's employees acting under the scope of the license have sold tobacco to persons under 18 years of age or otherwise violated this Chapter on four separate occasions during any 24 month period, the alcoholic beverage board must set a disciplinary hearing for the licensee. If, at the hearing, it is shown that the licensee or licensee's employees did sell tobacco to persons under 18 years of age or otherwise violated this Chapter on four separate occasions in a 24 month period, the alcoholic beverage board must revoke the license. In addition, the licensee shall be ineligible to apply for a cigarette license in the next succeeding license year;

(e) An individual who sells tobacco to a person under the age of 18 years must be charged an administrative penalty of \$50. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing as provided in paragraph (a) of this Section.

Section 3. That Section 11-10 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 11-10. Self-service merchandising.

(a) No person shall offer for sale tobacco in open displays which are accessible to the public without the intervention of a store employee. No business establishment licensed under this Chapter shall sell tobacco in any manner except by having the licensee or an employee of the licensee physically deliver the tobacco to the customer;

(b) It shall be an affirmative defense in any prosecution under this Section for the defendant to show by a preponderance of the evidence that the alleged sale of tobacco took place in an establishment licensed to sell tobacco that:

(1) Holds itself out as a store that sells only tobacco and tobacco-related products;

(2) Prohibits persons under 18 years of age from entering or remaining on the premises and has posted signs at the establishment's entrance informing customers that they must be at least 18 years old to enter;

(3) Derives at least 90 percent of its revenues from the sale of tobacco or tobacco related products as shown by business records it keeps in the ordinary course of business.

Section 4. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 2, 1999)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed March 22, 1999

Approved March 22, 1999

GARY L. DOTY, Mayor

ORDINANCE NO. 9407

BY COUNCILOR HOGG:

AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1998 INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

The city of Duluth does ordain:

Section 1. That Ordinance 9356 passed and approved December 15, 1997, is hereby amended by appropriating an additional \$135,000 from the general fund's undesignated, unreserved fund balance as follows:

Department 010 - legislative and executive

Division 1104 - attorney's \$ 35,000

Department 030 - finance

Division 1324 - auditor's \$ 25,000

Department 100 - fire

Division 1502 - fire operations \$ 60,000

Department 300 - library

Division 1920 - library services \$ 15,000

Section 2. That this ordinance shall take effect and be in force immediately upon its passage. (Effective date: March 22, 1999)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed March 22, 1999

Approved March 22, 1999

GARY L. DOTY, Mayor

ORDINANCE NO. 9408

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE GRANTING ARROWHEAD EQUIPMENT COMPANY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN PIPES, PUMP ISLANDS AND PUMPS AND A CANOPY IN AND OVER A PORTION OF A UTILITY EASEMENT IN THE TWIN PORTS TRUCK CENTER DIVISION.

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 Arrowhead Equipment Co., their successors and interests, referred to herein as the permittees, to occupy, erect and maintain pipes, pump islands and pumps and a canopy in that part of a utility easement on Lot 1, Block 3, Twin Ports Truck Center Division as the same was dedicated to the use of the public and the plat of Twin Ports Truck Center 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: the west 15 feet of the south 162 feet of a 30 foot wide utility easement along the east line of Lot 1, Block 3, Twin Ports Truck Center Division.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance, 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 permittee shall use the above described easement area and property related thereto in a manner so as to not allow any condition to exist on the property, whether pre-existing or after-created, which constitutes a violation of any environmental law or laws with regard to pollutants or hazardous or dangerous substances promulgated by the government of the United States or of the state of Minnesota or of any such duly promulgated rules and regulations of the United States environmental protection agency or the Minnesota pollution control agency or the presence on the property of any element, compound, pollutant, contaminant, or toxic or hazardous substance, material or waste, or any mixture thereof, which otherwise causes injury or death to persons or damage to property.

Section 4. That said permit granted under this ordinance may be terminated at any time if the city of Duluth determines that the use of the area occupied by said permittees is incompatible with the city's use of the public easement or that permittee has permitted a violation of the conditions set forth in Section 3 above. 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 5. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said pipes, pump islands, pumps and canopy, all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above and shall have mitigated any violation of the requirements of Section 3 above in a manner complying with applicable law within said six months or such earlier date as may be required by a court or federal or state agency of competent jurisdiction, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 6. That by the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any use of said easement by the permittees, and agree that such pipes, pump islands and pumps and canopy,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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 utility easement and agree that the city of Duluth shall not be liable for damage caused to such pipes, pump islands, pumps and canopy, while the city is engaged in making repairs to public utilities, and agree to pay to the city of Duluth all extra costs of installation or maintenance of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such pipes, pump islands and pumps and canopy in said utility easement. In addition to the generality of the foregoing above, developer hereby agrees that for itself, its successors and assigns that it will indemnify and save the city and its officers, agents, servants and employees and any person who controls the city within the meaning of the Securities Act of 1933 harmless from and against all liabilities, losses, damages, costs, expenses, including reasonable attorney's fees and expenses, causes of action, suits, claims, demands and judgments arising out of any condition existing on the property, whether pre-existing or after-created, which constitutes a violation of the requirements of Section 3 above and that indemnification granted hereby shall include all costs of clean-up, remediation, together with the costs incurred in proceedings before court of law or administrative agency including attorney's fees, expenses, the fees and expenses of persons providing technical expertise addressing such problems, including expert witnesses, the costs of preparing and securing approval of response action plans as may be necessary to meet the requirements of the aforesaid agencies and any other costs and expenses of any kind whatsoever arising out of such conditions existing on the property.

Section 7. That the construction of the pipes, pump islands and pumps and canopy be limited to and in substantial compliance with the plans submitted and on file in the office of the city clerk as Public Document No. 99-0322-20.

Section 8. That permittee shall provide to the city and keep current proof that it has secured insurance with limits of not less than \$1,000,000 written by a company licensed to do business in the state of Minnesota insuring the performance of permittees obligations under Section 6 above, either in the form of a separate policy protecting the city or by including the city as an additional insured on permittee's insurance, said insurance to be acceptable to the city attorney and said proof to require that the city receive notice of any cancellation, change or modification of said policy not less than 30 days prior to any such action and, if the "acord" form of insurance certification is used, the words "endeavor to" be stricken therefrom.

Section 9. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 2, 1999)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 22, 1999
Approved March 22, 1999
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 12, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: Councilors Prettner Solon and Rapaich -- 2

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The minutes of council meetings held on February 1, 4, 8 and 22, 1999, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0412-01 James DeArmond, et al. (four signatures) submitting petition to construct a two inch grinder-pump system in Greysolon Road 650 feet west of 35th Avenue East to serve Lots 1-8, Block 25, Lots 3-5, Block 26, and Lots 6-16, Block 16 - Rearrangement part of East Duluth and First Addition to East Duluth to be included in the year 2000 street improvement project. -- Assessor

99-0412-02 Habitat for Humanity submitting petition to vacate the alley off Swenson Street, Block 4, Ironton Fourth Division alongside Lots 15 and 27. -- Assessor

99-0412-03 Paul Wrazidlo submitting petition to vacate Myrtle Street adjacent to Lots 1 & Lot 16, Block 33, Duluth Heights. -- Assessor

99-0412-04 Bresnan Communications submitting 1998 performance review, pursuant to Ordinance No. 8778. -- Received

99-0412-36 Duluth-Superior Public Access Cable Television (PACT) submitting survey of Bresnan Communications cable subscribers conducted in February 1999. -- Received

99-0412-05 Marilyn Froehling submitting communication (supported by 14 signatures) regarding the proposed reclassification from R-1-b single family residential to C-1 commercial the property located at 1315 West Arrowhead Road (99-008-O). -- Received

99-0412-06 Housing and Redevelopment Authority of Duluth submitting audit report for the year ending September 30, 1998. -- Received

99-0412-35 Lise Larsen submitting communication regarding the closure of Lakeview Avenue at the Hawthorne Avenue intersection (99-0164R). -- Received

99-0412-07 The following submitting communications regarding the proposed Lakewalk East extension (99-0216R): (a) John Parker; (b) Tom Peterson. -- Received

99-0412-08 The following submitting communications regarding city council approval of DEDA expenditures in excess of \$25,000 (99-0239R): (a) Duluth Area Chamber of Commerce board of directors; (b) Stewart-Taylor Printing. -- Received

99-0412-37 The following submitting communications regarding Demolition Landfill Services, LLC, special use permit (99-0234R): (a) Citizens Coalition of Gary-New Duluth; (b) Demolition Landfill Services, LLC; (c) Ken Gilbertson, et al. -- Received

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REPORTS OF OFFICERS

99-0412-38 Mayor Doty submitting memo regarding Demolition Landfill Services, LLC, special use permit (99-0234R). -- Received

99-0412-39 Administrative Assistant Hartl submitting memo regarding Demolition Landfill Services, LLC, special use permit (99-0234R). -- Received

99-0412-09 Assessor submitting:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

(a) Affidavit of mailing of notice of informational meetings on April 7, 1999, at 4:30 and 7:00 p.m. and a city council public hearing on April 12, 1999, at 8:00 p.m. regarding the 2000 street improvement program. -- Clerk

(b) Letter of insufficiency regarding petition to vacate Myrtle Street adjacent to Lots 1 & Lot 16, Block 33, Duluth Heights;

(c) Letters of sufficiency regarding petitions to:

(1) Construct a two inch grinder-pump system in Greysolon Road 650 feet west of 35th Avenue East to serve Lots 1-8, Block 25, Lots 3-5, Block 26, and Lots 6-16, Block 16 - Rearrangement part of East Duluth and First Addition to East Duluth to be included in the year 2000 street improvement project;

(2) Vacate:

(A) Alley off Swenson Street , Block 4, Ironton Fourth Division along side Lots 15 and 27;

(B) Part of West Michigan Street beginning 50 feet easterly of the intersection of 33rd Avenue West. -- Received

99-0412-10 Engineer submitting, pursuant to Section 45-89 of the City Code, approval and acceptance of the following public improvements constructed privately: Skyline Parkway and Eighth Street Alley, 3-1/2 Avenue West to Fifth Avenue West (alley and utilities), Watson Mall utilities (Stone Ridge Mall), Central Entrance traffic signals at Watson Mall, 54th Avenue East, Idlewild Street southerly approximately 75 feet (street), Fourth Street and Fourth Street Alley, Third Avenue East to Fourth Avenue East (street, alley and utilities), Plum Street at Skywood Lane sanitary sewer, Commonwealth Avenue sanitary sewer, Falcon Street sanitary sewer. -- Received

99-0412-11 Parks and recreation department director submitting Lake Superior zoological society minutes of January 27, 1999, meeting. -- Received

99-0412-40 Water and gas department submitting 1998 annual report. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-0412-12 Board of zoning appeals minutes of February 23, 1999: (a) Annual; (b) Regular meetings. -- Received

99-0412-13 Duluth airport authority minutes of February 16, 1999, meeting. -- Received

99-0412-14 Environmental advisory council submitting: (a) Copy of letter regarding Demolition Landfill special use permit; (b) Minutes of March 3, 1999, meeting. -- Received

99-0412-15 Housing and redevelopment authority of Duluth minutes of February 23, 1999, meeting. -- Received

99-0412-16 Planning commission: (a) Findings regarding the proposed Vedder special use permit (99-0235R); (b) Minutes of: (1) February 9; (2) March 9, 1999, meetings. -- Received

99-0412-17 Sanitary sewer board for the WLSSD minutes of: (a) March 15; (b) March 29, 1999, meetings. -- Received

99-0412-18 Seaway Port authority of Duluth minutes of: (a) January 29; (b) February 22, 1999, meetings. -- Received

99-0412-19 Special assessment board:

(a) Minutes of March 9, 1999, meeting;

(b) Reports for the proposed:

(1) Construction of bituminous overlay on 32nd Avenue West from Superior Street to Carlton Avenue;

(2) Reassessment of permanent street, sanitary sewer, water & gas mains in Woodridge First Addition. -- Received

99-0412-20 Technical design advisory committee for DWMX-D minutes of January 19, 1999, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Darlene Virta reviewed the history of the Women's Coalition special use permit and questioned why the changes that are now being proposed do not have to come back to the city council and the planning commission for approval. She noted that the neighbors have not been officially notified that the new plans increase the project by over 4,000 feet. In conclusion, Ms. Virta noted that this type of activity promotes distrust and that there is new information that needs to be presented.

To councilors concerns, Administrative Assistant Hartl noted that he would review the information presented here.

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Anita Stech, representing Duluth-Superior Public Access Cable Television (PACT), presented information regarding a survey that was done regarding the viewership of public access cable television (Public Document No. 99-0412-36).

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Rob Stenberg voiced his objections to the council's previous actions in passing the resolution where Duluth economic development authority (DEDA) expenditures over \$25,000 would have to come to the council for approval. He felt that there was accountability already and noted his concern over the council slowing down the process of having the community grow and that economic development will grind to a halt.

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At this time Councilor Hogg moved to suspend the rules to consider Resolution 99-0234, granting a special use permit to Demolition Landfill Services, LLC, for a demolition debris land disposal facility on property located at 1100 West Gary Street, by Councilor Prettner Solon (introduced by Councilor Hardesty), which motion was seconded and unanimously carried.

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

Rick Stoyanoff noted that while the council must stringently review a permitting process, their greater responsibility is to address the concerns of the residents in the area and future generations. He noted that while different agencies review their own specific areas of concern, the vast majority of residents of this area oppose any environmental hazards and loss to property values. Mr. Stoyanoff requested that the council proceed to rezone this area back to its previous residential zoning.

Bill Spehar noted that zoning and investment should not rule, and that it was a mistake when it was done years ago, just in order to get new business. Regarding the investment, he felt that the applicant knew the risk of this kind of investment.

Sandra Timm expressed appreciation for the study done by the UMD environmental studies group. She noted that the reasons why a neighborhood dies off is because other like businesses try to stop competition or local businesses try to keep a specific business out, which has not been done in this case. Ms. Timm noted that environmentally friendly individuals do more harm than good; communication comes to a stand still and replaced by mistrust, and some older residents try to keep an area strictly a "bedroom community." She also noted that this area needs businesses to stay alive and that this is a quality company with the necessary safeguards to protect the concerns of the residents.

Councilor Edwards moved to amend the resolution to add the following language at the end:

“RESOLVED FURTHER, that as a further condition of this permit, Demolition Landfill Services, LLC, shall comply with the following requirements:

(a) Send all landfill inspection reports to all organizations or individuals who want to be on the service list, including without limitation, the manager of physical planning, administrative assistant, city council, city attorney, WLSSD, MPCA, Gary-New Duluth Community Club and Gary-New Duluth Citizen’s Coalition;

(b) Draft and submit to the manager of physical planning quarterly recycling reports. These reports shall identify the amount and percentage of material brought to the site covered by this special use permit that is being recycled, including year to date recycling amounts and percentages;

(c) Maintain two certified demolition debris landfill operators at the landfill site covered by this special use permit during all hours of operation;

(d) Visually screen the landfill by planting and maintaining vegetative cover;

(e) Install and operate a groundwater monitoring well between the temporary landfill and the ERI landfill,” which motion was seconded and discussed.

The rules were again unanimously suspended to hear speakers on the resolution.

Pat Stojevich noted that the quality of life in this area and property values are increasing, that this development is not in the immediate neighborhood and that this company will be an asset to the community. He felt the ones opposing this group have caused disruption to the community and to developments.

Darren Saari, applicant, felt that some of the issues that were raised at the committee meeting (Public Document No. 99-0412-38) are not relevant to the permitting process, nor his responsibility. He noted that he has received approval from the planning commission, the environmental advisory council and the Western Lake Superior Sanitary Sewer District (WLSSD), and that he was 98 percent complete with the Minnesota pollution control agency (MPCA) permitting. In conclusion, Mr. Saari noted that he will work diligently to get that permit.

Jack Perry, attorney for Demolition Landfill Service/Viet, reviewed that in his letter (Public Document No. 99-0412-37(b)) are responses to the five proposed reasons for denial. He stated that he felt those reasons are not legally sufficient or factious. Mr. Perry noted that through this two year process his client has been forthright, honest and respectful to those who raise concerns. He requested that if this is not approved, there be a subsequent resolution of denial which would identify truthfully the reasons for denial.

Joseph Balach stated his objections to statements made by noting that this neighborhood supports improvements, as shown in a street improvement project that was supported by 95 percent of the residents; that there are businesses in Gary-New Duluth; that a harassment charge against one of the opponents by Mr. Saari was dismissed.

Councilor Edwards’ amendment was unanimously carried.

Councilors discussed the history of this area and stated that there were problems with the prior operator’s use of this land.

Councilor Hogg read the statement of purpose, noting the conditions that were stated as findings of the physical planning division staff.

Councilor Hardesty felt that, along with other issues, certain prior zoning issues have not been fully resolved and that more information is needed to determine what effect this landfill will impact on those issues.

Councilor Hales noted that the city of Duluth has laid out the process for a special use permit, which notes the condition for approval. She stated the necessary agencies have approved this. Councilor Hales also stated that the references that Councilor Hogg noted were just the

statements that were previously stated by the council and that legally the applicant has met all the conditions that were required of him.

Resolution 99-0234, as amended, failed upon the following vote (Public Document No. 99-0412-32):

Yeas: Councilors Edwards and Hales -- 2

Nays: Councilors Gilbert, Hardesty, Hogg, Swapinski and President Keenan -- 5

Absent: Councilors Prettner Solon and Rapaich -- 2

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At this time, 9:10 p.m., the public hearing regarding the 2000 street improvement program began.

Mark Winson, city engineer, reviewed the scope of the year 2000 street improvement program and the process that has been followed.

To Councilor Hogg's concerns, Mr. Winson stated that he would request that, even with the special circumstances of the Sixth and Seventh streets project, it remain on the year 2000 street improvement program.

Dick Andrea noted that he and all others, except for one person, on historic Seventh Street want to preserve the historical nature of the street as it exists and to refurbish it to the original condition.

Rob Stenberg voiced concern that he did not feel that the Colorado Street condition warrants any improvements. He stated that he has reviewed the conditions that determine what streets are done, noting that it does not meet enough of the criteria to warrant this improvement.

To Councilor Hogg's comments, Mr. Winson noted that if this street is ordered in, a more in-depth review would confirm what is needed and that part of that determination is the need for storm sewer improvements.

Jean Stenberg expressed her opinion that 50th Avenue East and Colorado Street does not need to be repaired at this time, with others in much more need; and that economics, not efficiency, should be considered first. In conclusion, she felt that when 50th Avenue East between Colorado and Tioga was done about ten years ago it was not done correctly and the residents should not be penalized for that.

Carolyn Sundquist noted her qualified support for the design phase of the street improvement for historical Sixth and Seventh streets. She noted that hopefully there might be some federal funds for this sort of historic street restoration, even if it required delaying the project until those funds are available.

John Goldfine voiced support for the improvement of historic Sixth and Seventh streets and stated that it should be done right, even if it is not the most cost effective means.

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At this time, 9:30 p.m., the hearing was closed.

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RESOLUTIONS TABLED

President Keenan moved to remove Resolution 99-0183, confirming appointment of Carol Thomson to planning commission replacing Stanley Gershgol, from the table, which motion was seconded and unanimously carried.

Resolution 99-0183 was adopted as follows:

BY PRESIDENT KEENAN (Introduced by Councilor Rapaich):

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

PLANNING COMMISSION

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Carol Thomson for a term expiring December 31, 2002, replacing Stanley Gershgol who resigned.

Resolution 99-0183 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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President Keenan moved to remove Resolution 99-0214, confirming appointment of James Prest replacing Mark Danielson, Carolyn Franklin replacing Lorene Glenn and Sheldon Grafstein replacing Rodrick Hill to human rights commission, from the table, which motion was seconded and unanimously carried.

Councilor Hogg reviewed that the personnel committee interviewed James Prest and the committee unanimously supports his appointment and would move to divide the resolution for consideration of that appointment, which motion was seconded and unanimously carried.

Resolution 99-0214(a), confirming the appointment of James Prest, was adopted as follows:
BY PRESIDENT KEENAN (Introduced by Councilor Rapaich):

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

HUMAN RIGHTS COMMISSION

James Prest for a term expiring March 1, 2002, replacing Mark Danielson.

Resolution 99-0214(a) was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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Councilor Hogg moved to table Resolution 99-0214(b) until interviews could be conducted, which motion was seconded and unanimously carried.

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Councilor Swapinski moved to remove Resolution 99-0118, conditionally approving the HarborPlace strategic development plan, from the table, which motion was seconded and unanimously carried.

Councilor Swapinski moved to refer the resolution to the administration, and that he will, at the proper time, make the same motion for Resolution 99-0129, sponsored by Councilor Gilbert and himself, which motion was seconded and unanimously carried.

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Councilor Hogg moved to remove Resolution 99-0235, 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.

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

Melanie Kucera felt that while the concerns regarding property values are something that can be substantiated, there is the question regarding the value and quality of life where someone lives when they are no longer independent. She also stated that while this can be referred to as a business, it is a business of people, families, community and quality of life.

Mike Vedder voiced support for this operation, noting that the building and yards have been kept up, that up to this time there have been no complaints, but since this application has been filed there have been many false complaints made. He requested that this operation be given the opportunity to prove itself.

Councilor Hogg noted that when this was sent back to the planning commission for the findings that are stated in the Code, and subsequently the council has received a memo from Jim

Mohn, physical planning division staff person, (Public Document No. 99-0412-16(a)) outlining that the applicant meets the requirements of the Code, the applicant has operated in compliance with current permits and regulations for more than two years, that the facility has been maintained and that there is no evidence to show that this operation has negative effects on property values.

Resolution 99-0235 was adopted as follows:

BY PRESIDENT KEENAN (Introduced by Councilor Prettner Solon):

WHEREAS, Suzanne Vedder has submitted to the city council a request for a special use permit for a ten resident residential care facility on property described as Lots 1 & 2, N'ly ½ of Lot 3, west 23 feet of N½ of Lot 21 and west 23 feet of Lots 22 & 23, Block 15, Glen Avon Second Division and located at 2140 Woodland 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 to the city council; and

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

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Suzanne Vedder to allow for the operation of a residential care facility at 2140 Woodland Avenue, subject to the following conditions:

- (a) That this permit be limited to not more than ten residents;
- (b) That the permit shall not be valid until the applicant secures all necessary fire, health, and building department permits, code compliance needs and approvals.

Resolution 99-0235 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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President Keenan moved to remove 99-0165, authorizing the increase in rental fees at Wade Stadium, from the table, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Hogg -- 1

Absent: Councilors Prettner Solon and Rapaich -- 2

President Keenan reviewed the prior committee discussion on this issue, noting there were concerns regarding the park and recreation department planning issues and the need to put more funds toward parks and recreation. He stated that he would support the resolution at this time.

Councilor Hardesty stated that she feels there are issues related to different age leagues that are being disadvantaged and would not support any increase to field fees until a better solution is found.

Councilor Hogg noted that there was a very good discussion regarding policy on this issue, noting that the amount of dollars is not significant, and that the issue is more of equity.

Councilor Hales noted that this comes to the council with the recommendation for approval from the Duluth baseball advisory committee and the parks and recreation commission. She felt that the council should support the recommendations from its advisory boards.

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

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

Nays: President Keenan -- 1

Absent: Councilors Prettner Solon and Rapaich -- 2

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Councilor Gilbert moved to remove the resolution 99-0164, directing the closure of Lakeview Avenue near the Hawthorne Road intersection, from the table, which motion was seconded and unanimously carried.

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

Leslie Oachs reviewed how their group has been meeting with the engineering division and developed three alternatives to reduce pass-through traffic. She stated that the plan that has been tried on Lakeview Drive has not reduced that traffic and closure here would be the best solution.

Edith Hols requested that the council reexamine the council policy of not closing streets and voiced support for the points raised in a newspaper editorial written by Jerry Kimball, former manager of the physical planning division. She noted that local streets are built for the prime responsibility of traffic safety and liveability in neighborhoods.

Bob McDonald urged support for the closure of Lakeview Avenue, noting that the neighborhood roads are there for the residents' safety and not the ease of dropping kids off at East High School.

Stephen Welsh supported the closure of Lakeview Avenue and, speaking as a driver education traffic safety instructor, has noticed the unpleasant conditions when school lets out. He also noted that he and the neighbors are requesting that Lakeview Avenue be closed at the alley, not at Hawthorne Road.

Ricardo Acevedo pointed out on the street map attached to the resolution that traffic comes from four different directions to drop students off or pick them up at East High School and uses Lakeview Avenue as a turn-around to return in the direction they came from. He noted that last year there were five reported accidents in this area and that, with an improved Lakeview Avenue, traffic will speed up and there will be more accidents.

Greg Yetter voiced concern for the dangerous condition at the Hawthorne Road intersection and noted that Lakeview Avenue is only intended to get residents to their homes and does not go any further. He also noted that the streets that Lakeview Avenue connects to also intersect with each other a block away.

Mr. Winson noted that he has plans developed for either choice the council chooses to go with.

Councilor Hogg stated that this is not a normal situation and thus would warrant conditions that would not be considered in other situations.

Councilor Hogg moved to amend the resolution as follows:

(a) In the first paragraph, delete the rest of the paragraph after the words "requesting the closure of," and insert the words "Lakeview Avenue at a point approximately 200 feet southwesterly of its intersection with Hawthorne Road where the alley intersects with Lakeview Avenue; and";

(b) In the second line of the fourth paragraph, delete the words "of the northwesterly 20 feet";

(c) In the third line of the fourth paragraph, delete the words "at the intersection of Hawthorne Avenue";

(d) In the sixth paragraph, delete the words "if conditions are observed";

(e) Amend the last paragraph to read as follows:

"NOW, THEREFORE, BE IT RESOLVED, that the petition for closure of Lakeview Avenue is hereby approved and the engineering division is requested to design a closure therefore," which motion was seconded and discussed.

To Councilor Hales' questions, Mr. Winson stated that the concerns of the fire department of only having one entrance to the area would be the same regardless of where the closure would be.

The amendment carried unanimously.

Councilor Gilbert noted that this issue shows how the street improvement program should be sensitive to the neighborhood concerns in not creating highways through neighborhoods and issues like this force residents to move to bordering communities if they want quiet safe streets.

Councilor Hales noted that while she will not vote against the resolution, she is challenging the council to look at how the public safety concerns can be addressed in the street improvement program.

Resolution 99-0164, as amended, was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, the residents of Lakeview Avenue have submitted to the city a petition requesting the closure of Lakeview Avenue at a point approximately 200 feet southwesterly of its intersection with Hawthorne Road where the alley intersects with Lake Avenue; and

WHEREAS, said petition was referred to the planning commission for their recommendation; and

WHEREAS, the planning commission, at its meeting of February 9, 1999, recommended against the petitioned closure of Lakeview Avenue; and

WHEREAS, the residents of Lakeview Avenue have submitted to the city council a request that it direct the closure of Lakeview Avenue despite the planning commission's negative recommendations with regard thereto; and

WHEREAS, the city council finds that the city planning commission's findings were not sufficient to deny the closure request; and

WHEREAS, the city council finds that it is in the best interest of the neighborhood and the city to close this street; and

WHEREAS, the city council finds that such a closure of Lakeview Avenue is in the best interest of the comprehensive plan and conserve and protect property values in the neighborhood.

NOW, THEREFORE, BE IT RESOLVED, that the petition for closure of Lakeview Avenue is hereby approved and the engineering division is requested to design a closure therefore.

Resolution 99-0164, as amended, was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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Councilor Swapinski moved to remove Resolution 99-0129, approving the concept of the Bayfront Park development plan prepared by the Bayfront Vision Group and requesting review of the plan by city and DEDA staff, from the table, which motion was seconded and unanimously carried.

Councilor Swapinski moved to refer the resolution to the administration until the report from the Bayfront task force is received, which motion was seconded and unanimously carried.

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Councilor Swapinski moved to remove Resolution 99-0216, awarding contract to Northland Constructors of Duluth, Inc., for Lakewalk East trail extension, in the amount of \$321,949.05, from the table, which motion was seconded and unanimously carried.

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

Tom Peterson thanked the councilors for taking the time to give this attention and listen to the neighborhood concerns.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Brian Hanson expressed concern for the safety of crossing Jefferson and Greysolon at 28th Avenue East, and supported the project, except for the extension to 28th Avenue East.

James Harvie reviewed his involvement with the plan to develop a safe bicycle connection to the Lakewalk from the neighborhood. He expressed his concern that, while this project connects safely to the Lakewalk, by eliminating the 28th Avenue East connection, the use of 26th Avenue East does not create a safe access from the Lakewalk to the neighborhood.

James Ross stated that, while he understands the sensitivity of the immediate neighbors around 28th Avenue East, he supports the safe connection to the Lakewalk from 28th Avenue East.

Brent Jacobson, bike representative to metropolitan interstate committee, stated that the intent of this project was to safely connect the neighborhood and bicycles to the Lakewalk, but, in fact, now it appears that the outcome will be to connect a parking lot to the Lakewalk. He requested that, in the future, projects be executed in a much smoother manner to encourage independence from cars.

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At this time, 10:55 p.m., Councilor Hogg 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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President Keenan stated that the big picture is to go by foot or bicycle from Lester Park/ 60th Avenue East to the Canal Park and then out to the Munger Trail without having any interference from motor vehicles.

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

“RESOLVED FURTHER, that this resolution is approved on the condition that a change order to the contract is processed which will delete the 28th Avenue East connector from the project and the staff is directed to create a connector along Alexander Street.

RESOLVED FURTHER, that the city council hereby states its intent to consider other points of access to the neighborhood from the Lakewalk East trail extension as such trail is developed further in the future,” which motion was seconded and discussed.

Councilor Gilbert stated that he supported the amendment, but also felt that there definitely needs to be a connector for the project.

To Councilor Hogg’s questions, Mr. Winson stated that the intent is to create a sidewalk along Alexander Street from 26th Avenue East to the end of the trail.

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

Jeff Brown stated that the intent of this project was to have a safe pedestrian connection from the neighborhood to the Lakewalk, and there needs to be a commitment from all parties to follow-up on the final aspect of the original intent.

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

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

Nays: Councilor Edwards -- 1

Absent: Councilors Prettner Solon and Rapaich -- 2

The amendment unanimously carried.

Resolution 99-0216, as amended, was adopted as follows:

BY COUNCILOR SWAPINSKI:

RESOLVED, that Northland Constructors of Duluth, Inc., be and hereby is awarded a contract for construction of Lakewalk East trail extension, parking lot, Alexander Street and railroad grade stabilization for the engineering division in accordance with specifications on its low

specification bid of \$321,949.05, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2107, Object 5530.

RESOLVED FURTHER, that this resolution is approved on the condition that a change order to the contract is processed which will delete the 28th Avenue East connector from the project and the staff is directed to create a connector along Alexander Street.

RESOLVED FURTHER, that the city council hereby states its intent to consider other points of access to the neighborhood from the Lakewalk East trail extension as such trail is developed further in the future.

Resolution 99-0216, as amended, was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license and approving issuance of an on sale wine license, for the period ending beginning May 1, 1999, and ending April 30, 2000, and August 31, 1999, respectively, subject to departmental approvals, and further subject to approval of the liquor control commissioner:

Mayur, Inc. (Mayur's India Palace), 319 West Superior Street, with Chandra and Indra Mehrotra, 25 percent stockholder, Mayur Vadhvana, 25 percent stockholder, Anita Aggarwal, 25 percent stockholder, and Koresh Lakhan, 25 percent stockholder.

Resolution 99-0254 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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 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 application and wishes to waive the 60 day waiting period.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Minnesota Deer 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 99-0272 was unanimously adopted.

Approved April 12, 1999

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to execute Amendment No. 3 to Lease No. 1-6110 with the state of Minnesota, department of administration covering space in the Government Services Center used by the city for the police garage, which amendment is on file in the office of the city clerk as Public Document No. 99-0412-21.

Resolution 99-0273 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Old Dominion Brush, Inc., be and hereby is awarded a contract for furnishing and delivering 190 street sweeper brooms for the fleet services division in accordance with specifications on its low specification bid of \$15,297.13, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 99-0284 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Earl F. Andersen, Inc., be and hereby is awarded a contract for furnishing and delivering playground equipment with installation supervision at Endion Park and Merritt Park for the park maintenance division in accordance with specifications on its low specification bid of \$46,883.68, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1999, Object C902.

Resolution 99-0288 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that A.W. Kuettel and Sons, Inc., be and hereby is awarded a contract for re-roofing three city buildings, Merritt recreation center; Central Hillside community center; Hillside sport court for the city architects division in accordance with specifications on its low specification bid of \$46,410, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1999, Object C910.

Resolution 99-0297 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of regular mechanic, which were approved by the civil service board on March 2, 1999, and which are filed with the city clerk as Public Document No. 99-0412-22, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that the pay range and rates remain unchanged, pay range 29, pay rate \$2,753 to \$3,266.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0259 was unanimously adopted.
Approved April 12, 1999
GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of senior nutrition director, including a title change to senior services director, which were approved by the civil service board on June 1, 1998, and which are filed with the city clerk as Public Document No. 99-0412-23, 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 133, pay rate of \$3,007 to \$3,574 per month to pay range 135, pay rate of \$3,269 to \$3,831 per month.

Resolution 99-0268 was unanimously adopted.
Approved April 12, 1999
GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of parking ramp attendant, which were approved by the civil service board on March 18, 1998, and which are filed with the city clerk as Public Document No. 99-0412-24, 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 14, pay rate of \$1,084 to \$1,243 per month to pay range 15, pay rate of \$1,431 to \$1,673 per month.

Resolution 99-0269 was unanimously adopted.
Approved April 12, 1999
GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of garden maintenance worker, which were approved by the civil service board on March 2, 1999, which are filed with the city clerk as Public Document No. 99-0412-25, are approved, that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range will remain the same.

Resolution 99-0275 was unanimously adopted.
Approved April 12, 1999
GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

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

COMMISSION ON DISABILITIES

Thomas Martin for a term expiring November 1, 1999, replacing Diane Garasha who resigned.

Resolution 99-0277 was unanimously adopted.
Approved April 12, 1999
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

BY PRESIDENT KEENAN:

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

MILLER CREEK JOINT POWERS BOARD

Robert Eaton and David Zentner for term expiring January 31, 2002.

Resolution 99-0293 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

WHEREAS, a special use permit was issued to Snowflake Cross Country Ski Center pursuant to Resolution No. 93-0872 to operate a cross country skiing facility 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, which permit was twice amended pursuant to Resolution Nos. 97-0395 and 98-0467, said permit, as amended, being hereinafter referred to as the "permit"; and

WHEREAS, George Hovland, D/B/A Snowflake Cross Country Ski Center, has submitted to the city council a request for an amendment to the permit to expand the types of seasonal uses on the above described property; 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 permit is hereby amended to authorize the following uses in accordance with the site plan on file in the city planning division office, subject to the conditions hereinafter set forth:

- (a) Construction of a 400 meter speed skating oval/surfaced for inline skating;
- (b) Relocation of the approved soccer field to the center field of the speed skating oval; the soccer field area would be designed to allow it to be surfaced for winter use;
- (c) Construction of an aggressive inline, skateboard and BMX free style bike park;
- (d) Construction of a clubhouse with support functions (storage and maintenance);
- (e) Construction of a parking lot.

BE IT FURTHER RESOLVED, that the above cited uses are subject to the following:

- (a) Securing all permits otherwise required under any applicable laws, rule and regulation, including but not limited to permits required by Chapter 51 of the Duluth City Code, 1959, as amended and the Minnesota Wetlands Conservation Act;
- (b) Review and approval of the design development plans and working drawings and specifications for the clubhouse facility described in paragraph (d) above by the planning commission prior to commencement of construction thereof.

Resolution 99-0276 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

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 \$16,000, based

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

on the city's application to the U. S. department of housing and urban development (HUD) for \$3,500,000 and the final award of \$3,516,000; and

WHEREAS, the citywide citizens advisory committee (CCAC) for the CDBG program at their meeting on March 29, 1999, passed a resolution recommending funding changes as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following funding transfers in the Federal Program Fund 262 - 1999 HUD-funded community development accounts as set forth below:

<u>1999 Duluth HUD Funded CDBG Program</u>				
<u>Account</u>	<u>Project</u>	<u>Original</u>	<u>Mod.</u>	<u>Revised</u>
6244	Contingency	\$ 29,757	\$ 16,000	\$ 45,757

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to accept \$3,516,000 in 1999 CDBG funds from HUD and execute all necessary documents in connection therewith.

Resolution 99-0278 was unanimously adopted.
 Approved April 12, 1999
 GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officials are hereby authorized to accept \$125,000 in emergency shelter grant program funds from the U.S. department of housing and urban development (HUD) and execute all necessary documents in connection therewith.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into emergency shelter grant program agreements, contingent upon receipt of funding from the HUD for same, with the service providers listed below in the amounts set forth with regard thereto, said agreements substantially in the form of Public Document No. 99-0412-34, payable from 1999 Federal Program Fund 262, Agency 622, Object 5434.

<u>Service Provider</u>	<u>Amount</u>
Churches United in Ministry (CHUM)	\$18,000
Churches United in Ministry (CHUM)	\$12,000
Women's Transitional Housing Coalition	\$18,746
Life House	\$15,000
The Salvation Army	\$21,000
Women's Coalition	\$15,000
American Indian Community Housing Org.	\$ 7,300
American Indian Community Housing Org.	\$ 8,100
Veterans Outreach North	\$ 4,854

Resolution 99-0279 was unanimously adopted.
 Approved April 12, 1999
 GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officials are hereby authorized to enter into community development block grant (CDBG) program agreements, contingent upon receipt of funding from the U.S. department of housing and urban development for same, with the service providers listed below in the amounts set forth with regard thereto, said agreements substantially in the form of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

that on file in the office of the city clerk as Public Document No. 99-0412-26, payable from 1999 Federal Program Fund 262, Agency 622.

Public Service Projects

<u>Acct#</u>	<u>Amount</u>	<u>Project</u>
6226	\$15,000	Transitional housing - AICHO
6227	\$65,000	Duluth community health care/Duluth Community Health Clinic
6228	\$10,000	YMCA mentor program
6229	\$80,000	Duluth hunger project - CHUM
6230	\$40,000	Transitional Housing Women's Coalition
6231	\$20,000	After school summer youth enrichment
6232	\$10,000	Veteran's outreach
6233	\$25,000	Life House youth center
6234	\$10,000	Summer neighborhood outreach-Playfair
6235	\$10,000	Families in transition/Harborview RMC
6236	\$60,000	Lincoln Park youth program/Boy's & Girl's Club
6237	\$30,000	Family transitional housing/Salvation Army
6238	\$40,000	Neighborhood Youth Services
6239	\$40,000	Central Hillside/YMCA
6240	\$40,000	East Hillside/Endion - YWCA
6241	\$30,000	Duluth H.O.M.E./Damiano Center

Resolution 99-0280 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that Earl F. Andersen, Inc., be and hereby is awarded a contract for furnishing and delivering playground equipment with components and installation supervision at Observation Park for the community development division in accordance with specifications on its low specification bid of \$15,423.99, terms net 30, FOB destination, payable out of Community Development Fund 262, Dept./Agency 621, Object 6112.

Resolution 99-0289 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are authorized to enter into an agreement with the state of Minnesota, department of economic security to lease office space in the Minnesota Workforce Center - Duluth, located on the second floor of the Government Services Center, 320 West Second Street. Lease period runs from February 1, 1998, through June 30, 1999. Costs are not to exceed \$33,064.96, payable from Fund 268, Budget Items 6214, 6213, 6205, 6222, 6223 and Fund 269, Budget Items 6278 and 6295.

FURTHER RESOLVED, a copy of this agreement shall be on file in the city clerk's office as Public Document No. 99-0412-27.

Resolution 99-0270 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

BY COUNCILOR GILBERT:

RESOLVED, that Thrall Distribution, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 180 feet of steel pipe for the water and gas department in accordance with specifications on its low specification bid of \$5,246.83, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 99-0281 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Resolution 98-1035 to Dahlen, Berg and Company, Inc., for furnishing professional legal services related to Northern Natural Gas rate filing and interconnecting to Great Lakes Pipeline projects, be amended to increase the amount by \$9,000 for a new total of \$17,500, payable out of Gas Fund 520, Dept./Agency 900, Organization 0545, Object 5319.

Resolution 99-0283 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth desires to complete design engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for survey, construction inspection and design of a 16 inch watermain upgrade to the Highland system near Central Entrance Miller Mall area; and

WHEREAS, R.R.E.M./M.S.A. Division has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with R.R.E.M./M.S.A. Division to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$30,000, will be payable from the Water Fund 510, Dept./Agency 900, Organization 0505, Object 5532.

Resolution 99-0294 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that International Piping Services Company be and hereby is awarded a contract for furnishing and installing three Stoppie fittings at Garfield Avenue and Michigan Street for the water and gas department in accordance with specifications on its low specification bid of \$16,195, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 99-0295 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

RESOLVED, that Chicago Tube & Iron Company be and hereby is awarded a contract for furnishing and delivering 6,300 feet of iron pipe and various fittings, valves, bushing, etc. for the water & gas department in accordance with specifications on its low specification bid of \$9,137.75, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 99-0296 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Silverness Plumbing, Heating and Excavating, Inc., be and hereby is awarded a contract for construction of three inch, two inch and one inch gas services on Garfield Avenue south of Railroad Street for the water and gas department in accordance with specifications on its low specification bid of \$18,645, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 99-0299 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

BE IT RESOLVED, that the proper city officials are authorized to pay the sum of \$20,018 to Mary Carey, the United States government internal revenue service, and Farmers Insurance Group (\$15,018 to Mary Carey and internal revenue service and \$5,000 to Farmers Insurance Group) in full settlement of all claims arising from a sewer failure on March 20, 1995, that caused damage to the property at 4920 London Road; payment from self-insurance fund.

Resolution 99-0263 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth; Spirit Bay Development Company; Rudy Senich, Angie L. Senich, and Peter Senich; William R. Juola and Shelley I. Juola; Roger L. Munson and Helen E. Munson; Theodore C. Pollard and Lorraine Pollard; Kenneth E. Newman and Judith A. Newman; Danny L. Cohen and Patricia A. Cohen; The Leroy W. Moore and Peggy H. Moore Trust; Wayne L. Fitzsimmons and Sandra L. Fitzsimmons; Gwin R. Whitney and Marjorie T. Whitney; Alfred E. Persch and Marillyn C. Persch; Dale M. Johnson and Marian C. Johnson; Roger A. Elverhoy and Ann M. Elverhoy; Vione J. Rydeen and Richard A. Rydeen; The Supplee Family Trust; Michael Bradley and Cynthia Bradley; Virginia L. Deetz and Oliver Humes, Jr.; and Manley R. Grover and Donna M. Grover; for the purpose of improving Bayhill Drive from Pulaski Street to East Spirit Cove Drive and assessing the cost of said project among the parties to the contract; said agreement filed as Public Document No. 99-0412-28.

Resolution 99-0264 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, by the Resolution of Intent numbered 98-0721, the council did request the administration to prepare plans and specifications for the construction of a bituminous overlay on 32nd Avenue West from Superior Street to Carlton Street (City Job No. 9083RS98); 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 \$6,000, payable from the Special Assessment Fund 810, Agency 038, Organization 5319, Object 5530; and reimbursed as follows: \$1,258.20 P.I. Fund 411 and \$4,741.80 assessable and that \$4,741.80 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. 99-0412-19(b)(1), and which description is hereby incorporated herein by reference to Public Document No. 99-0412-19(b)(1); that those assessed be permitted to pay said assessment in installments over a five year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 99-0271 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 98-0596 to R.R.E.M./M.S.A. Division for furnishing professional engineering services required for survey, geotechnical and design of 1999 street improvement project for Duluth Heights lower area, be amended to increase the amount by \$46,715 for a new total of \$131,656, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9901, Object 5530.

Resolution 99-0282 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Standard Brick and Supply, Inc., be and hereby is awarded a contract for furnishing and delivering sewer repair material consisting of 500 bags of Thorite 200, 50 pails water plug and 25 gallon containers of Acryl 60 for the sewer division in accordance with specifications on its specification bid of \$8,972.63, terms net 30, FOB destination, \$2,243.16 payable out of Sewer Fund 530, Dept./Agency 500, Organization 0570, Object 5227 and \$6,729.47 payable out of Stormwater Utility Fund 535, Dept./Agency 500, Organization 0585, Object 5227.

Resolution 99-0285 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Neenah Foundry Company be and hereby is awarded a contract for furnishing and delivering 50 concave gutter inlet frames and grates and 25 manhole ring and cover assemblies for the sewer division in accordance with specifications on its low specification bid of \$14,430.75, terms Net 30, FOB destination, payable out of Stormwater Utility Fund 535, Dept./Agency 500, Organization 0585, Object 5227.

Resolution 99-0286 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Neenah Foundry Company be and hereby is awarded a contract for furnishing and delivering 50 manhole ring and cover assemblies for the sewer division in accordance with specifications on its low specification bid of \$10,543.50, terms Net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0570, Object 5227.

Resolution 99-0287 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Utility Systems of America, Inc., be and hereby is awarded a contract for construction of lower Duluth Heights 1999 street improvement project including Deerwood Street and Orange Street for the engineering division in accordance with specifications on its low specification bid of \$418,100.12, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9901, Object 5530.

Resolution 99-0290 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for construction of Smithville 1999 street improvement project for the engineering division in accordance with specifications on its low specification bid of \$516,711.45, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9905, Object 5530.

Resolution 99-0291 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 99-0292, by President Keenan, authorizing a 1999 HOME program administrative agreement with the Housing and Redevelopment Authority of Duluth, Minnesota (HRA) for the home single-family housing rehabilitation program in an amount not to exceed \$408,795, was introduced for discussion.

Councilor Hales stated that it was her original intent to table this resolution if information

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

requested by the community development and finance staff had not been received, but that information was received and therefore there is no need to table the resolution. She noted that a meeting date has been set to discuss issues with the HRA.

Resolution 99-0292 was adopted as follows:

BY PRESIDENT KEENAN:

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 Number 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. 99-0412-29 with HRA for administration of the fiscal year 1999 HOME Program Administration Agreement in an amount not to exceed \$408,795; \$407,00 payable from 1999 Federal HOME Program Fund 260, Agency 020, Organization 2681, Object H003 and \$1,795 payable from 1998 Federal HOME Program Fund 260, Agency 020, Organization 2672, Object H003.

Resolution 99-0292 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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At this time, 11:28 p.m., Councilor Hogg moved to suspend the rules to continue the council meeting until 11:45 p.m., which motion was seconded and unanimously carried.

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement with Camp, Dresser & McKee, Inc., filed as Public Document No. 99-0412-30, for professional services in the study of rate comparison and adjustment factors for the storm water utility in the city of Duluth. The compensation under this agreement shall not exceed \$16,000, and shall be paid from Fund 535-500-0500-5303.

Resolution 99-0274 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officials are hereby authorized to execute an amendment to a professional services agreement with F.I. Salter Company, Inc., approved by Resolution 98-1005, for property appraisal services in connection with the acquisition of the Lepak property, which amendment is on file in the office of the city clerk as Public Document No. 99-0412-31, and which amendment increases the amount of such agreement from \$15,000 to \$20,000, which shall be payable from the self insurance fund.

Resolution 99-0301 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the state of Minnesota has approved a project memorandum and the plans for the construction of Lakewalk East trail extension and parking lot; and

WHEREAS, it has been determined that a portion of the trail connecting to 28th Avenue East and Jefferson Street should be eliminated; and

WHEREAS, the proposed changes are contrary as to the scope of the project described in the project memorandum approved by Mn/DOT September 12, 1997, and the plans approved by Mn/DOT December 12, 1998.

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 any and all claims, demands, actions or causes of actions arising out of or by reason of, changes to the plan and the scope of the project, 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 such changes.

Resolution 99-0307 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-97.8 of the Duluth City Code, 1959, as amended, that alternate side parking shall apply only from 1:00 a.m. to 7:00 a.m. each day at the following locations:

- First Street - 11th Avenue East to 14th Avenue East;
- First Avenue West - Third Street to Fourth Street;
- Fourth Street - Mesaba Avenue to Fourth Avenue West;
- 12th Avenue East - First Street to Fourth Street;
- 56th Avenue West - Grand Avenue to Elinor Street;
- 57th Avenue West - Grand Avenue to Cody Street;
- 59th Avenue West - Grand Avenue to Main Street;
- 88th Avenue West - Arbor Street to Falcon Street;
- Lake Avenue - Third Street to Fourth Street;
- McCulloch Street - 46th Avenue East to 47th Avenue East;
- Superior Street - 14th Avenue East to 26th Avenue East.

FURTHER RESOLVED, that the no parking from 2:00 a.m. to 6:00 a.m. on alternate days now in effect is hereby rescinded.

Resolution 99-0265 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zones are hereby established: both sides of Kenwood Drive from Maryland Street to 200 feet north of Victoria Street; both sides of Maryland Street from Kenwood Drive to Warren Avenue.

Resolution 99-0267 was unanimously adopted.

Approved April 12, 1999

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCES TABLED**

BY COUNCILOR PRETTNER SOLON

99-005 - AN ORDINANCE GRANTING ST. MARY'S DULUTH CLINIC (SMDC) MEDICAL CENTER A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN AN EXPANDED SKYWALK OVER EAST THIRD STREET AND A CLINIC DROP OFF AND LOADING AREA ALONG THE SOUTH SIDE OF EAST THIRD STREET BETWEEN FOURTH AVENUE AND FIFTH AVENUE EAST (SMDC).

Councilor Swapinski moved to remove the ordinance from the table, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Hogg -- 1

Absent: Councilors Prettner Solon and Rapaich -- 1

Councilor Hogg expressed his concern that the issues of rerouting oversized traffic and if this will be one-way or two way traffic have not been resolved.

Councilor Hogg moved to retable the ordinance for further information, which motion was seconded and carried upon the following vote:

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

Nays: President Keenan -- 1

Absent: Councilors Prettner Solon and Rapaich -- 2

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BY PRESIDENT KEENAN (Introduced by Councilor Prettner Solon)

99-008 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 37 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM "R-1-B" SINGLE FAMILY RESIDENTIAL TO "C-1" COMMERCIAL OF PROPERTY LOCATED AT 1315 WEST ARROWHEAD ROAD (FLAIG).

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

Councilor Hogg noted that the council had received word from Mr. Mohn that the applicant for this change had contacted him and stated that he no longer had a valid purchase agreement for the property. He added that City Attorney Dinan recommended that it would be appropriate to deny this ordinance under the circumstances noted.

Councilor Hales requested that a special use permit be developed to address the types of situations that came up with this type of rezoning request.

Ordinance 99-008 failed upon a unanimous vote (Public Document No. 99-0412-33).

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The following entitled ordinances were read for the first time:

BY COUNCILOR HOGG

99-011 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$305,000 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

99-012 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$2,500,000 GENERAL OBLIGATION BONDS (GREAT LAKES AQUARIUM PROJECT) OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

BY COUNCILOR HOGG

99-013 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1999 DECREASING THE BUDGET BY REDUCING THE APPROPRIATION AUTHORITY.

The following entitled ordinance was read for the second time:

BY COUNCILOR EDWARDS

99-009 (9409) - AN ORDINANCE AMENDING SECTIONS 41-23 AND 41-24 OF THE CITY CODE RELATING TO THE PROCEDURE FOR AWARDING CONTRACTS BY THE CITY.

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

The meeting was adjourned at 11:40 p.m.

JEFFREY J. COX, City Clerk

ORDINANCE NO. 9409

BY COUNCILOR EDWARDS:

AN ORDINANCE AMENDING SECTIONS 41-23 AND 41-24 OF THE CITY CODE RELATING TO THE PROCEDURE FOR AWARDING CONTRACTS BY THE CITY.

The city of Duluth does ordain:

Section 1. That Section 41-23 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 41-23. Contract procedure--contracts exceeding \$25,000.

Purchase of all supplies and contractual services exceeding an estimated cost of \$25,000 shall be made by the purchasing agent pursuant to the provisions of this Section either by formal written contract or upon a properly executed purchase order, whichever method such purchasing agent deems appropriate, from the lowest responsible bidder after due notice inviting proposals. All sales of personal property when the estimated value shall exceed \$25,000, shall be made by formal written contract or such other means of conveyance as the city attorney may prescribe to the highest responsible bidder after due notice inviting proposals.

(a) Notice inviting bids;

(1) Newspaper. Notice inviting bids shall be published in at least two issues of the official newspaper of the city. The time set for the opening of such bids shall be not less than ten days from the date of the last publication of such notice. Such newspaper notice shall include a general description of the articles to be purchased or sold, shall state where bid blanks and specifications may be secured and the time and place of opening bids;

(2) Bidders list. The city purchasing agent shall also solicit sealed bids from all responsible prospective suppliers who have requested their names to be added to a "bidders list," which the purchasing agent shall maintain, by sending them a copy of such newspaper notice or such other notice as will acquaint them with the proposed purchase or sale. In any case, invitations sent to the vendors on the bidders list shall be limited to commodities that are similar in character and ordinarily handled by the trade group to which the invitations are sent;

(3) Bulletin board. The city purchasing agent shall also advertise all pending purchases or sales by a notice posted on the public bulletin board in the city hall;

(b) Bid deposits. When deemed necessary by the city purchasing agent, bid deposits shall be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to return of such deposits where the purchasing agent has required such. A successful bidder shall forfeit any such deposit required by the purchasing agent upon failure on his part to enter a contract within ten days after the award. For the purpose of this Subsection, the term "deposit" shall mean cash, cashier's check, certified check or corporate surety bond;

(c) Bid opening procedure;

(1) Sealed bids. Bids shall be submitted sealed to the purchasing agent and shall be identified as bids on the envelope;

(2) Opening. Bids shall be opened in public at the time and place stated in the public notices;

(3) Tabulation. A tabulation of all bids received shall be posted for public inspection;

(d) Rejection of bids. The city purchasing agent shall have the authority to reject all bids, parts of all bids or all bids for any one or more supplies or contractual services included in the proposed contract when the public interest will be served thereby. The purchasing agent may reject the bid of a contractor who is in default on the payment of taxes, licenses or other money due the city;

(e) Award of contract;

(1) Authorization by city council. Contracts within the purview of this Section shall be awarded only after authorization by resolution of the city council;

(2) Lowest responsible bidder. Contracts shall be awarded to the lowest responsible bidder. In determining lowest responsible bidder, in addition to price, the purchasing agent shall consider:

(A) The ability, capacity and skill of the bidder to perform the contract or provide the service required;

(B) Whether the bidder can perform the contract or provide the service promptly or within the time specified without delay or interference;

(C) The character, integrity, reputation, judgment, experience and efficiency of the bidder;

(D) The quality of performance of previous contracts or services;

(E) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;

(F) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;

(G) The quality, availability and adaptability of the supplies or contractual services to the particular use required;

(H) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;

(I) The number and scope of conditions attached to the bid;

(3) Award to other than low bidder. When the award is not given to the lowest bidder, a full and complete statement of the reason for placing the order elsewhere shall be prepared by the purchasing agent and filed with the other papers relating to the transaction;

(4) Tie bids;

(A) Local vendors. If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a local bidder. If two or more local bidders submit tie bids, the purchasing agent shall award the contract to one of the tie bidders by drawing lots in public;

(B) Outside vendors. Where tie bids are submitted by outside vendors, the purchasing agent shall award the contract to one of the tie bidders by drawing lots in public;

(5) Performance bonds. The city purchasing agent shall have the authority to require a performance bond, before entering a contract, in such amount as he shall find reasonably necessary to protect the best interests of the city. He shall require a performance bond in every case where a law specifically requires the furnishing of a bond as a condition precedent to the awarding of a contract for the doing of any public work or the making of any public improvement;

(f) Prohibition against subdivision. No contract or purchase shall be subdivided to avoid the requirements of this Section.

Section 2. That Section 41-24 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 41-24. Contract procedure--Contracts of \$25,000 or less.

Purchases of supplies and contractual services and all sales of personal property involving \$25,000 or less shall be made pursuant to the provisions of this Section either by formal written contract or upon a properly executed purchase or sale order, whichever method is deemed appropriate.

(a) Bidding procedures;

(1) Contracts between \$10,000 and \$25,000. If the amount of the contract is estimated to exceed \$10,000 but not to exceed \$25,000, the purchasing agent shall make such purchases or sales by direct negotiation, obtaining two or more quotations when possible, unless the finance director of the city directs that such purchase or sale be made pursuant to the formal bidding procedures set forth in Section 41-23 of this Code. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof;

(2) Contracts of \$10,000 or less. If the amount of the contract is estimated to be \$10,000 or less, the purchasing agent may, in his discretion, make the purchase or sale either upon quotation or in the open market. If the contract is made upon quotation, it shall be based, so far as practicable, on at least two quotations, which shall be kept on file for a period of at least one year after receipt thereof;

(3) Purchases of \$2,500 or less. In the case of purchases estimated to be \$2,500 or less, department heads or their designees are authorized to make such purchases without the approval of the purchasing agent. Such purchases may be made either upon quotation or in the open market. If such purchases are made upon quotation, they shall be based, so far as practicable, on

at least two quotations, which shall be kept on file for a period of at least one year after receipt thereof;

(b) Rejection of bids. The purchasing agent or other person authorized to make purchases shall have the authority to reject all bids, parts of all bids or all bids for any one or more supplies or contractual services included in the proposed contract when the public interest will be served thereby. The purchasing agent or other person authorized to make purchases may reject the bid of a contractor who is in default on the payment of taxes, licenses or other money due the city;

(c) Award of contract. The purchasing agent or, subject to the limitations of paragraph (a) (3) of this Section, other persons authorized to make purchases shall have authority to award contracts within the purview of this Section, provided that contracts for more than \$10,000 with sole source providers or for which only one complete responsive bid was received shall be awarded only after authorization by the city council;

(d) Performance bonds. The provisions regarding performance bonds contained in Section 41-23 of this Code are hereby incorporated into this Section.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 17, 1999)

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

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

Nays: None -- 0

Absent: Councilors Prettner Solon and Rapaich - 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 12, 1999
Approved April 12, 1999
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, April 22, 1999, 5:00 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATIONS OF PETITIONS AND OTHER COMMUNICATIONS

99-0422-01 Evensen Dodge, Inc., submitting: (a) Bid results; (b) Official statement pertaining to G.O. tax increment bonds, Series 1999B. -- Received

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MOTIONS AND RESOLUTIONS

Resolution 99-0316, by Councilor Hogg, providing for the issuance, sale and delivery of \$4,530,000 general obligation tax increment bonds, Series 1999B; establishing the terms and form thereof; creating a bond fund therefor; and awarding the sale thereof, was introduced for discussion.

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

Kathy Kardell, representing Evensen Dodge, financial consultants, reviewed that because of the litigation surrounding this project for some time, a negotiated sale of these bonds was completed on April 22 with a retail order period and full disclosure of the situation of the litigation. She stated that the bonds were priced extremely well with a net interest rate of 4.17 percent. Ms. Kardell also stated that the credit ratings remained at A1 and A+ with Moody's Investors and Standard & Poor's Ratings, respectively.

Councilor Gilbert questioned if the negotiated interest rate was comparable to a competitive rate. Ms. Kardell replied that they were concerned about the litigation and what effect it would have on the rates, but that the litigation was very well documented and the interest rate received was a fair and good negotiated rate.

Resolution 99-0316 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 A. The Duluth Economic Development Authority ("DEDA") established a Development Program and Plan for Development District No. 17, dated September 12, 1994. Tax Increment Financing District No. 4 ("TIF District No. 4") is located within Development District No. 17. Such Development Plan and an Amendment to Tax Increment Financing Plans for Duluth Tax Increment Districts Numbers 2 and 4 (the "Amendment") approved by DEDA on August 18, 1998, provides for use of tax increment from TIF District No. 4 for public development costs associated with construction of the Great Lakes Aquarium at Lake Superior Center (the "Project") which is located within Development District No. 17 and Tax Increment Financing District No. 2. The City hereby approves the Amendment.

B. Pursuant to Minnesota Statutes Section 469.178, the City is authorized to issue its general obligation bonds for the purpose of financing public development costs within Development District No. 17, and the City hereby authorizes the issuance of \$4,530,000 General Obligation Tax Increment Bonds, Series 1999B (the "Bonds"), for the purpose of providing funds to pay part of the public development costs associated with the Project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

1.02 As required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), the City has, on November 19, 1998, held a public hearing on the issuance of general obligation bonds to finance a portion of the Project.

1.03 Pursuant to Section 475.60, Subdivision 2(9) of the Act, which waives the requirement for a public sale of bonds when a municipality has retained an independent financial advisor, the City has received an offer from Dain Rauscher Incorporated of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$4,486,965 plus accrued interest on the total principal amount from May 1, 1999, 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 bond purchase agreement for the sale of the Bonds in accordance with the Purchaser's proposal. All actions of the Mayor, the City Clerk and Evensen Dodge, Inc., independent financial advisor to the City, taken with regard to the sale of the Bonds are hereby ratified and approved.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated May 1, 1999, as the date of original issue, shall be issued in the denomination of \$5,000, or any integral multiple thereof, and shall be lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the amounts and years stated and shall bear interest at the annual rates as set forth below:

Year	Amount	Interest Rate
2000		\$430, 300 %
2001		445, 350 %
2002		460, 360 %
2003		480, 370 %
2004		500, 385 %
2005		520, 395 %
2006		540, 405 %
2007		565, 415 %
2008		590, 420 %

2.02 The Bonds maturing in the years 2000 through 2006 shall not be subject to redemption and prepayment before maturity, but those maturing on or after February 1, 2007, 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. If only part of the Bonds having a common maturity date are called for prepayment, the specific Bonds to be prepaid will be chosen by lot. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to the Bond Registrar designated below and to the registered owner of each Bond to be redeemed, at the owner's address shown on the registration

books of the City, but the failure to give such mailed notice, or defect in any notice so mailed, shall not affect the validity of the proceedings for the redemption of any Bond not affected by such failure or defect. Notice of redemption and prepayment shall also be given in accordance with the terms of the Representation Letter described in Section 2.06 hereof.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing on August 1, 1999. Interest will be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar designated below at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the City Clerk in substantially the form set forth in the form of the Bond, but only if the opinion is not manually executed. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City Council hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 3.01 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 A. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City has previously agreed to the applicable provisions set forth in the Blanket Issuer Letter of Representations which has been executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City of each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. Additional matters with respect to, among other things, notices, consents and approvals by Bond holders and payments on the Bonds are set forth in the Representation Letter.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

Section 3. Form of the Bonds.

3.01 The Bonds shall be printed or typewritten in substantially the following form:

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

R-_____ \$_____

CITY OF DULUTH
GENERAL OBLIGATION TAX INCREMENT BOND, SERIES 1999B

<u>Interest</u>	<u>Maturity Date</u>	<u>Date of</u>	<u>CUSIP</u>
<u>Rate</u>		<u>Original Issue</u>	
%		May 1, 1999	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS

The City of Duluth, St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above, on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from May 1, 1999, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 1999. Both principal hereof and interest hereon are payable in lawful money of the United States of America by check or draft by Norwest Bank Minnesota, National Association, of Minneapolis, Minnesota, as bond registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor Bond Registrar as may be designated by the City Council. The Bond Registrar shall make all interest payments with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$4,530,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475, Sections 469.174 to 469.179, and all other laws and home rule charter provisions of the City thereunto enabling, and pursuant to a resolution adopted by the governing body of the City on April 22, 1999 (the "Resolution"), for the purpose of financing a portion of public development costs associated with the construction of the Great Lakes Aquarium at Lake Superior Center located in Development District No. 17 in the City and for payment of part of the interest cost of said bond issue. The principal hereof and interest hereon are payable from tax increment revenue from 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 2000 through 2006 are not subject to redemption before maturity, but those maturing on and after February 1, 2007, are each 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 at the option of the City and in such manner as the City shall determine and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall

be mailed to each registered owner of a Bond to be redeemed, but no defect in or failure to give such mailed notice of redemption shall affect the validity of the proceedings for redemption of any Bond not affected by such failure or defect. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond a bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. This Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate and deliver, in exchange for this Bond, one or more new fully registered Bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the principal amount of this Bond, of the same maturity, and bearing interest at the same rate. No service charge shall be made for any transfer or exchange hereinbefore referred to but the City may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith and the cost of printing the new Bonds.

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

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

IN WITNESS WHEREOF, the City of Duluth, St. Louis County, Minnesota, by its governing body, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

ATTEST:

City Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

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

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
5/___/99	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

ASSIGNMENT

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

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

Dated: _____.

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

Signature Guaranteed:

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

Section 4. Revenues, Accounts and Covenants.

4.01 The City has created a separate construction account in Fund 450, Capital Improvement Fund, to which there shall be credited \$4,530,000, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, together with any additional funds which may be available and are appropriated for the Project. The funds from this account shall be used solely to pay public development costs of the Project, as set out in the Tax Increment Plans for Tax Increment Districts No. 2 and 4, and costs of issuance of the Bonds; and the money in said account shall be used for no other purpose except as otherwise provided by law.

4.02 Until the Bonds are fully paid or duly called for redemption or otherwise discharged, the City will also maintain a separate debt service account (the "Debt Service Fund") in the City's debt service fund created by Section 54(a) of the City Charter, to be used solely for the payment of the interest and the principal, respectively, as such principal and interest become due and payable on the Bonds. There is hereby pledged to the Debt Service Fund certain tax increments from TIF District No. 4 received by the City pursuant to the Tax Increment Pledge Agreement between the City and DEDA (the "Pledge Agreement"), which pledge is hereby accepted by the City, and the City officers are hereby authorized to execute the Pledge Agreement. It is the

intention of the City that the entire amount of the principal and interest on the Bonds be paid with tax increment, but in no event will less than 20% of the costs of the Project financed with the Bonds be paid from tax increment. The Treasurer shall credit to the Debt Service Fund all proceeds of the Bonds in excess of \$4,530,000, amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, plus the amount of accrued interest paid by the Purchaser, all tax increment payable pursuant to the Pledge Agreement and the ad valorem taxes levied, if any, pursuant to Section 4.02 hereof.

4.03 If the balance in the Debt Service Fund to pay the Bonds is ever insufficient to pay all principal and interest then due on the Bonds, the Treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from such Debt Service Fund when the balance therein is sufficient. It is estimated that the tax increment revenues herein pledged and appropriated to said fund will be received at the times and in amounts not less than five percent in excess of the amounts needed to meet when due the principal and interest payments on the Bonds and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the tax increment revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to such bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the Mayor and the City Clerk are hereby authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the City.

Section 6. Tax Covenants.

6.01 A. 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.

B. The City shall comply with requirements necessary under the Code to establish and maintain the exclusion from gross income under Section 103 of the Code of the interest on the Bonds, including, without limitation (i) requirements relating to temporary periods for investment, (ii) limitation on amounts invested at a yield greater than the yield on the Bonds, and (iii) if required, the rebate of excess investment earnings to the United States.

C. The City covenants not to use more than two percent of the proceeds of the Bonds (including, but not limited to, investment earnings, if any), to pay costs relating to the issuance of the Bonds (within the meaning of Section 174(g) of the Code).

6.02 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Section 7. Certificates of Proceedings.

7.01 The City Clerk is directed to file in the office of the County Auditor of St. Louis County a certified copy of this Resolution, and such other information as the County Auditor may require, and to obtain from the County Auditor and provide to bond counsel a certificate stating that the Bonds herein authorized have been duly entered on the County Auditor's register.

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

7.03 The Mayor and the City Clerk are hereby authorized and directed to certify that they have examined the Official Statement prepared and circulated in connection with the issuance and sale of the Bonds and that to the best of their knowledge and belief the Official Statement is a complete and accurate representation of the facts and representations made therein as for the date of the Official Statement.

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

Resolution 99-0316 was unanimously adopted.

Approved April 22, 1999

GARY L. DOTY, Mayor

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The meeting was adjourned at 5:15 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 26, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: Councilor Hales -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0426-26 Neal Peaslee submitting communication regarding closure of Lakeview Avenue off of Hawthorne Street (99-0164R). -- Received

99-0426-01 The following submitting communications regarding the 2000 street improvement program (99-0309R): (a) Steven C. Anderson; (b) Richard and Catherine Andree; (c) Charles L. and Margaret A. Barbee; (d) Doug and Boni Bieniek; (e) Marcuis L. Chart; (f) Steve and Trudy Erlemeier; (g) John and Cynthia Fochs; (h) Robert and Kristin Ryan. -- Received

99-0426-02 The following submitting communications regarding the Duluth ship canal speed limit (99-0359R): (a) Mary Kirsling; (b) Lakehead Boat Basin, Inc. -- Received

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REPORTS OF OFFICERS

99-0426-27 Administrative assistant submitting letter appointing Richard Larson director of public works and utilities. -- Received

99-0426-04 Engineering division submitting monthly project status report of April 1, 1999. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-0426-03 Alcoholic beverage board minutes of: (a) January 13; (b) March 10, 1999, meetings. -- Received

99-0426-05 Duluth housing trust fund board minutes of: (a) November 12, 1997; (b) October 8, 1998; (c) February 10, 1999, meetings. -- Received

99-0426-06 Environmental advisory council minutes of March 4, 1999, meeting. -- Received

99-0426-07 Heritage preservation commission minutes of: (a) January 13; (b) February 10, 1999, meetings. -- Received

99-0426-08 Parks and recreation commission minutes of March 10, 1999, meeting. -- Received

99-0426-09 Planning commission minutes of March 24, 1999, meeting. -- Received

99-0426-10 Sanitary sewer board for WLSSD minutes of April 5, 1999, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Mike McNamara, representing Team Duluth, reviewed that their fiscal year runs from May 1 to April 30 and are requesting funds for the upcoming year from both the Duluth economic development authority (DEDA) and the city. He continued by saying that for eight months of this year they did the project management for the Technology Village and the Soft Center project (until they hired a president), conducted recruitment activities at trade shows, wrote grants and worked with the state legislature for funding. Mr. McNamara stated that the primary focus for this year will be work force development; the major project for last year was the northeast skills assessment

that gave them a baseline study of the underemployment in Northern Minnesota and the skills that the employees and employers were seeking in the 21st century. He reviewed that the new business plan that the city helped fund along with DEDA allows the director of the airport authority to work on significant infrastructure improvements that will enable them to bring aviation type businesses to Duluth. Mr. McNamara stated that the operating budget is basically the same as last year, and they may be looking for funds for technical work force recruitment strategy if the state funding for the Soft Center is not secured.

Councilor Hogg questioned how Team Duluth will be able to develop financial and people resources to make sure the work force will be available for the Soft Center and questioned if there is a backup plan if the state money does not come through.

Mr. McNamara stated that the greatest natural resource now is the underemployed work force that exists in Northern Minnesota, and getting those people matched with the correct training to fill information technology jobs will bring all the companies that are needed to the Technology Village. He continued by saying that staffing is critical to keep all of the projects moving and that this need has been expressed to both President Keenan and Councilor Prettner Solon. Mr. McNamara also stated that while there is a plan in place for work force development, if the state does not come through with the money needed, they may have to come back to DEDA and the city for extra funds.

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Councilor Hogg moved to consider at this time Resolution 99-0364, approving DEDA agreement with Team Duluth pursuant to DEDA Resolution 99D-22, by Councilor Prettner Solon, which motion was seconded and unanimously carried.

Resolution 99-0364 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that, pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority ("DEDA") and TEAM Duluth in the amount of \$50,000, as approved by the DEDA board at its meeting of April 20, 1999, pursuant to DEDA Resolution No. 99D-22, a copy of which is on file in the office of the city clerk as Public Document No. 99-0426-21, is hereby approved.

Resolution 99-0364 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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At this time, 8:00 p.m., the public hearing regarding the Duluth Ship Canal speed limit was called to order.

Councilor Prettner Solon explained that this public hearing is to seek out information from the public on the hazardous conditions in the canal. She continued by saying that some watercraft proceed in the canal causing significant wakes which are dangerous to kayaks and small boats. She reviewed that currently there is an ordinance from 1897 which allows a speed limit of six miles per hour in the canal and the proposed ordinance would make the speed limit five miles per hour. Councilor Prettner Solon continued by saying that she had requested City Attorney Dinan to research who has the authority in the canal, and he found that the Minnesota department of natural resources (DNR) is the lead agency. She said that the city is holding a public hearing to come up with new language and forward the changes to the DNR as a recommendation. Councilor Prettner Solon went on by saying that once the changes are approved by the DNR, an ordinance needs to be approved by the council.

Councilor Hardesty questioned who would enforce the ordinance and what the consequences are of speeding in the canal.

Mr. Dinan replied that any agency with motor craft could enforce the speed limit and how the city would enforce the ordinance needs to be discussed. He continued by saying that adequate signage is important as people are unaware of the current ordinance and a violation would be an ordinance violation with a fine up to \$700.

Donald Kusina, representing Western Lake Superior Trolling Association, stated there is no problem in the ship canal, but agreed there are some irresponsible boaters going through the canal at a high rate of speed. He continued by saying that sailboats under sail have the right-of-way, kayaks are made for rough water, and he feels only canoes have a problem.

Betsy Warnygora stated that she has been boating for 11 years and has seen a big increase in boaters going through the canal; a lot of them small boats. She continued by saying that the current in the canal can either be dangerous or safe, but if the conditions are right and a boat going through the canal fast enough causes their wake to splash up against the canal wall, the water will go back into the canal, which can in turn cause a swamping effect on a boat. Ms. Warnygora stated that she thinks that a lot of boaters feel there is a need for safety in the canal, as it can be dangerous for a small boat to be in the canal if there is a large wake. She stated that creating a "no wake zone" or posting the speed limit will make the boaters realize there is a need to slow down. Ms. Warnygora stated that all watercraft in the canal, no matter what the size, has a right to be safe going through the canal.

Councilor Swapinski questioned if bigger boats can create a large wake by going at a slow speed through the canal.

Robin Baxter stated that two out of the three times she and her children have been sailing their boat has been swamped in the canal by a bigger boat, which has been a frightening and dangerous experience for herself and her children.

K.L. Lewis stated that the canal is dangerous water by its nature and that when she walks down through the canal during boating season when the power boaters come out, they like to tease the smaller boats and sailboats. She continued by saying that there needs to be some regulations for the canal and the people who administer the drunk boat drivers program should be in charge of regulating this.

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At this time, 8:30 p.m. the public hearing was closed and the regular order of business was resumed.

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Councilor Prettner Solon moved to consider at this time Resolution 99-0359, giving preliminary approval to an ordinance amending Section 26-10 of the City Code relating to speed regulations in the Duluth Ship Canal, which motion was seconded and unanimously carried.

Responding to Councilor Prettner Solon, Mr. Dinan stated that the DNR has reviewed the draft language for the ordinance and has approved it.

Councilor Hogg questioned why the council should change an ordinance that the city has not been enforcing. He continued by saying that this is an issue of awareness by the boaters and the city needs to find a mechanism to enforce the current law.

Councilor Swapinski stated he would vote against an ordinance that would cause even more unsafe conditions.

Councilor Prettner Solon questioned why there was a change to five miles per hour.

Mr. Dinan replied that the wording would then be the same as the state regulations that are geared for inland lakes. He continued by saying that the larger boats are not on the inland lakes, and that is why the speed works for those lakes.

Councilor Hardesty stated that she agrees in principle to the resolution but does not know how to address the issue of large boats causing wakes while going slowly. She went on to say she would be willing to offer a friendly amendment to have a slow "no wake" speed which would be easier to enforce than a speed limit. Councilor Hardesty suggested to try this for the summer and then get feedback to see if it worked to help the safety in the canal.

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

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Darlene Virta voiced her concern on the Women's Coalition building being built on 20th Avenue East and Seventh Street, as the original plan was for a building of 8,025 square feet and now the building has almost jumped to 12,000 square feet. She also stated that there are no plans filed in the city clerk's office as required by the special use permit before any building permit can be issued. Ms. Virta also stated that the Women's Coalition told the council that they are not transitional housing but a women's shelter, but now they have received extra funding and are into transitional housing.

Councilor Hogg questioned what happens when people have certain plans approved and what changes they can make, how the city monitors that and if people are required to follow the plans.

Councilor Swapinski also questioned when plans approved by the council can be administratively approved and when they have to come back for council approval.

Jamie Glitsos stated that this proposed building for the Women's Coalition is not the building previously approved by the city council on January 27, 1997. She continued by saying that the neighbors were not informed of the changes to a 12,000 square foot project; which is for office space and not extra bedrooms. She expressed concern that the residents and homeowners will have excessive lighting shining in their homes from the parking lot. Ms. Glitsos requested that the special use permit be put on hold and be brought back to the city council to see if these changes, which do not conform to the neighborhood, need a new special use permit.

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Jason Lyons stated that he lives in an apartment of 24 residents that are mobility impaired and that there is no sidewalk on their side of the street leading to different businesses and the residents have to use their wheelchairs in the streets. He continued by saying that he has a petition signed by everyone in the building requesting the sidewalk and signal lights at Maple Grove and Haines Road with a crosswalk.

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RESOLUTIONS TABLED

Councilor Rapaich moved to remove Resolution 99-0214(b), confirming appointments of Carolyn Franklin replacing Lorene Glenn and Sheldon Grafstein replacing Rodrick Hill to human rights commission, from the table, which motion was seconded and unanimously carried.

Councilor Hogg moved to divide the resolution and refer the Carolyn Franklin portion back to the administration, which motion was seconded and unanimously carried.

Resolution 99-0214(b) was adopted as follows:

BY COUNCILOR RAPAICH:

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

HUMAN RIGHTS COMMISSION

Sheldon Grafstein for a term expiring March 1, 2000, replacing Rodrick Hill who resigned. Resolution 99-0214(b) was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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Councilor Swapinski moved to remove Resolution 99-0232, ordering the construction of a bituminous overlay on Blackman Avenue from Macfarlane Road to Arrowhead Road (City Job No. 9154RS98) at an estimated cost of \$62,414; and Resolution 99-0233, ordering the construction of a bituminous overlay on Macfarlane Road From Blackman Avenue to Howard Gnesen Road (City Job No. 9153RS98) at an estimated cost of \$138,000, from the table, which motion was seconded and unanimously carried.

Councilor Swapinski moved to return the resolutions back to the administration, which motion was seconded and unanimously carried.

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

RESOLVED, that the budget for the fiscal year May 1, 1999, to April 30, 2000, in the amount of \$3,279,784 for the Spirit Mountain recreation area authority is hereby approved.

Resolution 99-0304 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the city is authorized to enter into a sponsorship agreement with North Shore Inline Marathon under which the city will contribute \$7,500 to assist with promotion of the 1999 marathon, which agreement is on file in the office of the city clerk as Public Document No. 99-0426-11, and such contribution shall be paid from Fund 258-0301431-5490.

Resolution 99-0342 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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 a premise permit to the following organizations.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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. Owls Club	118 East Second Street	March 18, 1999
2. Duluth Epilepsy Foundation	CW Chips Pioneer Bar	March 15, 1999
3. Mpls Mn Beverage Licensed Childrens Fund	Round Up Bar & Grill	April 2, 1999
4. Duluth Curling Club	Buena Vista Lounge	March 31, 1999

Resolution 99-0314 was unanimously adopted.
Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that be and hereby is awarded a sale for one 1981 Case Model 680H backhoe in accordance with its bid of \$12,750, terms net 30, FOB destination, revenue to General Fund 100.

Resolution 99-0324 was unanimously adopted.
Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals:

College of St. Scholastica, 1200 Kenwood Avenue, for May 5 and 7, 1999, with Melanie J. Rotz, manager.

Resolution 99-0325 was unanimously adopted.
Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues an on sale seasonal dance license to the following on sale intoxicating liquor licensee, for the period ending August 31, 1999, subject to departmental approvals:

Kegler's Inc. (Incline Station), 601 West Superior Street.
Resolution 99-0326 was unanimously adopted.
Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of a temporary on sale intoxicating liquor license, subject to any specific restrictions, and further subject to approval of the liquor control commissioner:

Northland Country Club, 3901 East Superior Street, for August 18, 1999, an application fee of \$200, and William Roberts, manager.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0327 was unanimously adopted.
Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the off sale intoxicating liquor license, for the period ending August 31, 1999, subject to departmental approvals, and further subject to the approval of the liquor control commissioner:

Buckeye Gifts Limited (Bellisio's Wine Warehouse), 525 Lake Avenue South, with Michael J. Paulucci, chairman and 90 percent stockholder, Andy Borg, ten percent stockholder, and Donald Bleau, president, transferred from Grandma's Sport Bar and Grill (Grandma's Sports Garden), 425 Lake Avenue South.

Resolution 99-0328 was unanimously adopted.
Approved April 26, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the off sale intoxicating liquor license, for the period ending August 31, 1999, subject to departmental approvals, and further subject to the approval of the liquor control commissioner:

Canal Park Liquor, LLC (Canal Park Liquor), 302 Lake Avenue South, with George Sherman, 100 percent stockholder, transferred from Arrowhead Bottle Shoppe, Inc. (Arrowhead Bottle Shoppe), 2525 North Arlington Avenue.

Resolution 99-0329 was unanimously adopted.
Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the on sale intoxicating liquor license for the period ending August 31, 1999, subject to department approvals:

Bluewater Bar & Grill, Inc. (The Bluewater Bar & Grill), 21 North Fourth Avenue West, with Wayne Belisle, 50 percent stockholder, and Vern Laudreville, 50 percent stockholder, transferred from Plaza Concepts (Canal Park Bar & Grill), 345 Canal Park Drive.

Resolution 99-0330 was unanimously adopted.
Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following renewal applications for on sale nonintoxicating malt liquor licenses for the period beginning May 1, 1999, and ending April 30, 2000, subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 99-0426-12.

Resolution 99-0331 was unanimously adopted.
Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following renewal applications for off sale nonintoxicating malt liquor licenses for the period beginning May 1, 1999, and ending April 30, 2000, subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 99-0426-13.

Resolution 99-0332 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Streicher's be and hereby is awarded a contract for furnishing and delivering miscellaneous accessories for marked squad cars for the police department in accordance with specifications on its low specification bid of \$10,445.09, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2009, Object V902.

Resolution 99-0337 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Resolution 98-0446 to Billington Contracting, Inc., for furnishing Class 5 gravel, be amended to increase the amount by \$20,000 for a new total of \$87,622.50, payable out of various funds, depts./agencies, organizations and objects.

Resolution 99-0340 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Goodwill Industries Vocational Enterprises (\$53,877.67) and Blotti and Sons Contracting (\$6,311.19) be and hereby is awarded contracts for furnishing grass cutting services for the various departments/divisions in accordance with specifications on their low specification bids for a total of \$60,188.86, terms net 30, FOB job sites, payable out of various funds, dept./agencies, organizations and objects.

Resolution 99-0345 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Commercial Electric Company be and hereby is awarded a contract for furnishing annual emergency electrical services for various departments/divisions in accordance with specifications estimated to total \$6,150, terms net 30, FOB job sites, payable out of various funds, dept./agencies, organizations and objects.

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

Resolution 99-0348 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved April 26, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that A.A. Custom Builders, Inc., be and hereby is awarded a contract for renovations of Wade Stadium/Phase II for the city architect division in accordance with specifications on its low specification bid of \$132,050, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1999, Object C907.

Resolution 99-0352 was unanimously adopted.

Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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 \$10,000 with the Copeland Community Center, which funds shall be used to finance programs and activities during calendar year 1999, which agreement is on file in the office of the city clerk as Public Document No. 99-0426-14, and under which agreement payments shall be made from the General Fund 015-1514, aid to other agencies.

Resolution 99-0357 was unanimously adopted.

Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the city council hereby reappoints Patrick Spott to the civil service board for a term expiring May 1, 2005.

Resolution 99-0310 was unanimously adopted.

Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

NEIGHBORHOOD ADVISORY COUNCIL

Derrick Parker (Central Hillside) for a term expiring March 1, 2001, replacing Darrell Olson who resigned.

Resolution 99-0311 was unanimously adopted.

Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

WHEREAS, subject to the approval by the mayor and confirmation by the city council, the administrative assistant has appointed Richard Larson as the director of the department of public works and utilities; and

WHEREAS, the mayor has approved such appointment;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby confirms the appointment of Richard Larson as the director of the department of public works and utilities.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0313 was unanimously adopted.
Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

Lynn Fena Hardesty (city councilor) for a term expiring April 27, 2005, replacing Lance Reasor.

Resolution 99-0358 was unanimously adopted.
Approved April 26, 1999
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 G&E Contracting, Inc., d/b/a Woodruff Lumber and Milling; 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 G & E Contracting, Inc., d/b/a Woodruff Lumber and Milling.

Resolution 99-0305 was unanimously adopted.
Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into community development block grant (CDBG) program agreements with the service providers listed below in the amounts set forth below with regard thereto, said agreements substantially in the form of that on file in the office of the city clerk as Public Document No. 99-0426-15, payable from 1999 Federal Program Fund 262, Agency 622.

<u>Account</u>	<u>Amount</u>	<u>Economic Development Projects</u>
6217	\$85,000	Northeast Entrepreneur Fund/microenterprise development
6219	\$50,000	Project SOAR of Northeastern Minnesota/programming for economic self-sufficiency
6220	\$177,000	North Star Community Development Corporation/microenterprise revolving loan fund
6225	\$30,000	Damiano of Duluth/opportunities cooking

Resolution 99-0308 was unanimously adopted.
Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the alley legally described as: the alley lying between Lots 15 and 27 and Lots 16 through 26, inclusive, all in Block 4, 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 April 13, 1999, 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. 99-0426-16.

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 alley to be vacated.

Resolution 99-0317 was unanimously adopted.

Approved April 26, 1999

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 portion of a utility easement legally described as: a triangular portion of Lot 11 Block 18, Endion Division, of described as follows: commencing at the northeast corner of said Lot 11, thence westerly along the north line a distance of 14 feet to a point, thence southerly perpendicular to the previous line a distance of four feet to the point of beginning, thence continuing southerly along the previous line a distance of six feet to a point, thence easterly along the edge of the easement a distance of six feet to a point, thence northwesterly a distance of 8.49 feet to the point of beginning and there terminating, all in Block 18, Endion Division of Duluth; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its August 11, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the utility easement described above, and as more particularly described on Public Document No. 99-0426-17.

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 utility easement to be vacated.

Resolution 99-0318 was unanimously adopted.

Approved April 26, 1999

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 part of West Michigan Street and part of 32nd Avenue West legally described as: West Michigan Street

beginning 50 feet easterly of the easterly line of 33rd Avenue West and extending easterly to the centerline of 32nd Avenue West between Lots 2-8, Block 18, O'Hara's Division and Lots 5-11, Block 20, O'Hara's Division; and 32nd Avenue West from the southerly line of Superior Street to the northerly line of Michigan Street between Blocks 18 and 19, O'Hara's Division; and 32nd Avenue West from Michigan Street to the northerly line of vacated Huron Street between Lots 16 & 17, Block 12 and Lots 1 and 32, Block 11, Marine 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 April 13, 1999, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of West Michigan Street and 32nd Avenue West described above, and as more particularly described on Public Document No. 99-0426-18.

BE IT FURTHER RESOLVED, that the rights-of-way herein vacated shall be retained in full as utility easements.

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

Resolution 99-0335 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that Century Fence Company be and hereby is awarded a contract for removal of existing fencing and installation of new vinyl coated fence at the Hillside Sport Court in accordance with specifications on its low specification bid of \$33,990, terms net 30, FOB job site, payable out of Community Development Fund 262, Dept./Agency 620, Object 6011.

Resolution 99-0346 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

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

WHEREAS, the city of Duluth as a suballocator is authorized to administer 2000 LIHTCs in an amount to be announced by the Minnesota housing finance agency in early 2000; and

WHEREAS, in accordance with Section 42 of the Internal Revenue Code of 1986, as amended, a qualified allocation plan for 2000 (the "plan") setting forth criteria governing the award of the city's LIHTCs has been prepared; and

WHEREAS, the Duluth housing commission met on April 8, 1999, 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 April 19, 1999.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

NOW, THEREFORE, BE IT RESOLVED, that the 2000 city of Duluth low-income housing tax credit qualified allocation plan, on file in the office of the city clerk as Public Document No. 99-0426-19, is hereby approved.

Resolution 99-0351 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, pursuant to Minnesota Statutes, Sections 462A.221 through 462A.225 (the "act"), the city of Duluth, Minnesota (the "city") is a suballocator of low-income housing tax credits (LIHTCs); and

WHEREAS, the city's 1999 allocation of LIHTC is \$162,300; and

WHEREAS, in accordance with Section 42 of the Internal Revenue Code of 1986, as amended (the "code"), the city has adopted a qualified allocation plan (the "plan") for 1999 setting forth criteria governing the award of the city's LIHTCs; and

WHEREAS, the city has received two complete applications for the LIHTCs: an application of Woodruff, Inc., for its Norman Ramsey Apartments requesting an allocation of 1999 LIHTCs in the amount of \$14,353 and an application of Sherman Associates for its West Duluth Townhomes requesting an allocation of 1999 LIHTCs in the amount of \$168,453 (the "projects"); and

WHEREAS, the applications for the projects have been scored in accordance with the plan; and

WHEREAS, the Duluth housing commission has recommended allocating LIHTCs to the projects in the amount of \$14,353 for the Norman Ramsey Apartments and \$147,947 for the West Duluth Townhomes, and has further recommended that the West Duluth Townhomes, as the highest ranking project, be the city's first priority LIHTC project for 1999; and

WHEREAS, the LIHTC requested for the projects exceed the city's 1999 allocation of LIHTC; and

WHEREAS, the city has entered into a joint powers agreement (the "agreement") with the Minnesota housing finance agency ("MHFA"), pursuant to which MHFA has agreed to allocate its LIHTCs to the city's highest ranking project submitted during the first round of allocations, if the project requires an allocation of LIHTCs in excess of the amount reserved for the city; and

WHEREAS, the amount of allocation of LIHTCs requested for the West Duluth Townhomes is in excess of the amount reserved for the city.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

(a) The city hereby finds and determines that the applications for the projects are complete in all material respects and meet the selection criteria set forth in the plan;

(b) The request for 1999 LIHTC allocations in the amount of \$14,353 for Norman Ramsey Apartments, and for \$168,453 for West Duluth Townhomes does not exceed the amount which is necessary for each of the projects' financial feasibility and viability as qualified low-income housing projects throughout the ten year credit period;

(c) In making the determination set forth above, the city considered the following with respect to the applications submitted:

(1) The sources and uses of funds and the total financing planned for the projects;

(2) Any proceeds or receipts expected to be generated by reason of tax benefits;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

(3) The percentage of the housing credit dollar amount used for costs of the projects other than the cost of intermediaries;

(4) The reasonableness of the developmental and operational costs of the projects.

(d) There is hereby allocated \$14,353 of the city's 1999 LIHTC allocation to Woodruff, Inc., for the Norman Ramsey Apartments and \$147,947 of the city's 1999 LIHTC allocation to Sherman Associates for the West Duluth Townhomes;

(e) In accordance with the recommendations of the Duluth housing commission, the West Duluth Townhomes, as the highest ranking project, is hereby designated the city's first priority LIHTC project for 1999;

(f) Staff is authorized and directed to work with MHFA and Sherman Associates to implement the terms of the agreement and secure an allocation of \$20,506 of MHFA's 1999 LIHTCs for the West Duluth Townhomes;

(g) Staff is additionally authorized to prepare, execute and deliver all documentation necessary or convenient to provide for the commitment, carryover and allocation of such credits, based on findings made in accordance with the requirements of the code at each of such steps, and subject to such conditions as the staff in their reasonable discretion deem appropriate and necessary to comply with the intent and policies set forth in the plan.

Resolution 99-0354 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officials are hereby authorized to execute a grant agreement with the Minnesota department of children, families and learning, under which the city and the Duluth Area Family Services Collaborative will receive \$30,100 for a program called "Book Time With Your Baby," which money shall be deposited in the General Fund 100-300-1704-4230.

Resolution 99-0312 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

WHEREAS, the economic viability of our community is based in part upon the attraction of visitors to this area; and

WHEREAS, the Willard Munger State Trail terminates in the city of Duluth and serves as a gateway and access to the trail systems to the south and provides tourism and recreational opportunities; and

WHEREAS, an adequate treadway surface on the Willard Munger State Trail is imperative to ensure our ability to attract trail participants and events such as the MS Bikeathon to this area; and

WHEREAS, the Willard Munger State Trail has 51 miles of 15 year old pavement with ten years of stud damage that is in need of resurfacing; and

WHEREAS, Munger Trail Towns Association has requested funding for the maintenance and repair of the Willard Munger State Trail;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby requests the Minnesota State Legislature to provide funding for the maintenance and repair of the Willard Munger State Trail during its 1999 session.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0355 was unanimously adopted.
Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that U.S. Filter Distribution Group be and hereby is awarded a contract for furnishing and delivering approximately 130 cast transitional couplings for the water and gas department in accordance with specifications on its low specification bid of \$5,841.04, terms net 30, FOB destination, \$2,920.52 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227 and \$2,920.52 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 99-0320 was unanimously adopted.
Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Davies Water Equipment Company be and hereby is awarded a contract for furnishing and delivering approximately 105 band type repair clamps for the water and gas department in accordance with specifications on its low specification bid of \$5,638.80, terms net 30, FOB destination, \$2,819.40 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227 and \$2,819.40 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 99-0321 was unanimously adopted.
Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Bingham and Taylor, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 1,000 cast iron valve boxes for the water & gas department in accordance with specifications on its low specification bid of \$18,894.09, net 30, FOB destination, \$9,447.05 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227 and \$9,447.04 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 99-0322 was unanimously adopted.
Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that U.S. Filter Distribution Group be and hereby is awarded a contract for furnishing and delivering approximately 10,000 feet of copper tubes and 1,025 fittings for the water and gas department in accordance with specifications on its low specification bid of \$21,320.77, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 99-0323 was unanimously adopted.
Approved April 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Goodin Company, Inc., be and hereby is awarded a contract for furnishing and delivering various ductile iron pipes and various fittings for the water and gas department in accordance with specifications on its low specification bid of \$53,013.06, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 99-0347 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that United Piping, Inc., be and hereby is awarded a contract for furnishing and delivering construction of one inch, two inch and three inch plastic gas mains, 1/2 inch and one inch plastic gas services and related work in various locations in the city of Duluth for the gas division in accordance with specifications on its low specification bid of \$128,050, terms net 30, FOB job sites, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 99-0349 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Earth Burners, Inc., be and hereby is awarded a contract for furnishing and delivering construction of two inch and three inch plastic gas mains, three inch plastic gas services and related work in Waseca Industrial Road from 58th Avenue West to 59th Avenue West from Waseca Industrial Road to 800 feet southerly for the gas division in accordance with specifications on its low specification bid of \$14,445, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 99-0353 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, it appears that it may be necessary to construct a two inch grinder pump system in Greysolon Road 650 feet west of 35th Avenue East to serve: Lots 1 through 8, Block 25, Lots 3, 4 and 5, Block 26, and Lots 6 through 16, Block 16, Rearrangement Part of East Duluth & First Addition to East Duluth.

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 99-0302 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

BY COUNCILOR SWAPINSKI:

RESOLVED, that L.E.S.C.O., Inc., be and hereby is awarded a contract for furnishing and delivering 1,300 pounds of 75 percent perennial rye grass with 25 percent blue grass seed mixture and 4,000 pounds of all purpose grass seed mixture for the street/park maintenance division in accordance with specifications on its low specification bid of \$5,217.44, terms net 30, FOB destination, \$5,112 payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5225 and \$105.44 payable out of Special League Fund 210, Dept./Agency 030, Organization 2190, Object 5229.

Resolution 99-0338 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Rick's Tree and Stump Removal be and hereby is awarded a contract for 117 tree removals throughout the city for the street/park maintenance division in accordance with specifications on its low specification bid of \$32,500, terms net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5454.

Resolution 99-0339 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of Lincoln Park central 1999 street improvement project for the engineering division in accordance with specifications on its low specification bid of \$818,283.09, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9904, Object 5530.

Resolution 99-0341 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Hallett Dock Company be and hereby is awarded a contract for furnishing and delivering approximately 3,405 tons of Class 5 limestone and 20 tons of screened limestone for the street maintenance division in accordance with specifications on its low specification bid of \$20,024.66, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5224.

Resolution 99-0344 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the city is hereby authorized to accept a grant in the amount of \$18,000 from the American Society for the Prevention of Cruelty to Animals for improvements to the Duluth animal shelter, such money to be deposited in the Special Projects Fund 210, Duluth Animal Shelter Benefit Account 2120.

Resolution 99-0356 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved April 26, 1999
GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places in the areas bounded by Commerce Street, the Lakeshore, Canal Park Drive and Lake Avenue during the marathon on June 19, 1999, and confined to the fenced in parking lot at night on June 18-20, 1999, in conjunction with Grandma's Marathon, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 99-0333 was adopted upon the following vote:

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

Nays: None -- 0

Absent: Councilor Hales -- 1

Abstention: President Keenan -- 1

Approved April 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals:

Grandma's Marathon Duluth, Inc., Morse Street and Canal Park Drive, for June 18, 19 and 20, 1999, with Donald Fennessy, manager, with the music and serving ceasing at 12:30 a.m.

Resolution 99-0336 was adopted upon the following vote:

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

Nays: None -- 0

Absent: Councilor Hales -- 1

Abstention: President Keenan -- 1

Approved April 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

Ken Hogg for a term expiring April 27, 2002, replacing Scott Keenan who resigned.

Resolution 99-0367 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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Resolution 99-0306, by Councilor Prettner Solon, amending Contract No. 17913 relating to the Consolidated Paper litigation with the firm of Maki and Overom, Chartered, increasing the amount payable by \$30,000, was introduced for discussion.

Councilor Prettner Solon urged councilors to support this resolution and let the courts decide how much money the city should pay.

Councilor Gilbert stated that he wants to know how much money the city will be paying and would not support this resolution until he gets an answer.

Councilor Swapinski stated that he would like to know how much money the city has spent on this litigation and will not support the resolution until he finds out the answer.

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

Yeas: Councilors Gilbert and Swapinski -- 2

Nays: Councilors Edwards, Hardesty, Hogg, Prettner Solon, Rapaich and President Keenan -- 6

Absent: Councilor Hales -- 1

Resolution 99-0306 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

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

Resolution 99-0306 was adopted upon the following vote:

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

Nays: Councilor Swapinski -- 1

Absent: Councilor Hales -- 1

Approved April 26, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0363, by Councilor Prettner Solon, approving DEDA agreement with Johnson Wilson Constructors pursuant to DEDA Resolution 99D-21, was introduced for discussion.

Councilor Hogg stated that he does not favor this project and considers it a bad use of resources compared to other needs in the city. He continued by saying that he is aware that the city has created an obligation by telling the building owners that if they do their share, they would be linked to the skywalk.

Councilor Prettner Solon reviewed that this was a top rated project by city staff, Downtown people and DEDA members in terms of skywalk expansion. She continued by saying that it would move toward completing a circuit to the Duluth Entertainment Convention Center (DECC) and provide an opportunity for jobs to come to the city. Councilor Prettner Solon also reviewed that Duluth Plumbing was required to obtain a commitment of jobs before that expansion was continued. They honored that commitment to a supply of jobs and the council has a responsibility to move forward with this project.

Councilor Gilbert reminded councilors that the city has already approved the intent of the city to support the project and this resolution allows for payment to the contractors.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Councilor Swapinski stated that since public money is being spent there should be a competitive bid process and until he sees a copy of the bids he cannot support this project.

President Keenan stated that this is not a high priority project in Duluth and feels the city should not spend the money.

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

Yeas: Councilors Gilbert, Hogg, Swapinski and President Keenan -- 4

Nays: Councilors Edwards, Hardesty, Prettner Solon and Rapaich -- 4

Absent: Councilor Hales -- 1

Resolution 99-0363 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that, pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority ("DEDA") and Johnson Wilson Constructors in the amount of \$251,000, as approved by the DEDA board at its meeting of April 20, 1999, pursuant to DEDA Resolution No. 99D-21, a copy of which is on file in the office of the city clerk as Public Document No. 99-0426-20, is hereby approved.

Resolution 99-0363 was adopted upon the following vote:

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

Nays: Councilors Hogg, Swapinski and President Keenan -- 3

Absent: Councilor Hales -- 1

Approved April 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that, pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority ("DEDA") and Oneida Realty in the amount of \$29,068, as approved by the DEDA board at its meeting of April 20, 1999, pursuant to DEDA Resolution No. 99D-29, a copy of which is on file in the office of the city clerk as Public Document No. 99-0426-22, is hereby approved.

Resolution 99-0365 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, rehabilitation of historic structures is important in the city of Duluth; and

WHEREAS, the Minnesota legislature is presently considering legislation (House File No. 2138) which would encourage rehabilitation of historic structures by giving an income tax credit for expenditures for this purpose;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby expresses its support for adoption of House File No. 2138.

Resolution 99-0366 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0309, by Councilor Swapinski, ordering the improvement of the 2000 street improvement program pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth at an estimated cost of \$7,000,000, was introduced for discussion.

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

Rod Stenberg stated that he feels that total reconstruction of Colorado Street is not necessary since most of the street is in good condition and that many streets in Duluth are worse. He also expressed concern that all the property owners are not being equally assessed for the project.

K.L. Lewis stated that there are 90 year old streets in Duluth that do not have potholes and the city would be well served to examine those streets and what is under them. She continued by saying that it might cost more to initially construct those streets but there might be lower annual costs to the city and the residents.

Resolution 99-0309 was adopted as follows:

BY COUNCILOR SWAPINSKI:

WHEREAS, 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. 99-0426-23 on file with the office of the city clerk; that the costs of said improvement estimated at \$7,000,000 shall be paid from the street improvement fund (Fund 440) and that 1/4 or less of said costs be levied against the property specifically benefitted by said improvements.

BE IT FURTHER RESOLVED, that whenever residents who live in the vicinity of one of the street improvements projects desires to be actively involved in the design development for the street improvement, a design advisory committee consisting of interested residents and city staff will be established to permit early involvement and public input on various street design elements including but not limited to street width, boulevard design and width, tree removal and replacement, driveways and traffic patterns.

Resolution 99-0309 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0319, by Councilor Swapinski, authorizing an agreement with Camp, Dresser & McKee to conduct a needs assessment for a stormwater management plan for a consideration of not to exceed \$35,000, was introduced for discussion.

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

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement with the state of Minnesota for the construction of a storm sewer adjacent to Trunk Highway 61 from 52nd Avenue East to Lake Superior within the corporate limits of Duluth under State Project No. 6925-114 (61=103); said agreement filed as Public Document No. 99-0426-24. The city's costs in this project, which are estimated to be \$235,603.43, are payable out of Storm Water Fund 535, Agency 500, Org. 0505.

Resolution 99-0350 was unanimously adopted.

Approved April 26, 1999

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR PRETTNER SOLON

99-005 (9410) - AN ORDINANCE GRANTING ST. MARY'S DULUTH CLINIC (SMDC) MEDICAL CENTER A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN AN EXPANDED SKYWALK OVER EAST THIRD STREET AND A CLINIC DROP OFF AND LOADING AREA ALONG THE SOUTH SIDE OF EAST THIRD STREET BETWEEN FOURTH AVENUE AND FIFTH AVENUE EAST (SMDC).

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

Councilor Hogg questioned whether the traffic should be one way or two way on Third Street. He stated the city needs to answer that question before the project is approved.

Councilor Swapinski voiced his concern for the bike traffic getting on and off the street.

Councilor Swapinski moved to retable the ordinance, which motion failed for lack of a second.

Councilor Prettner Solon urged councilors to support this ordinance as no new information could be presented that will change the facts on the project and stated that she does not think the project will determine the street traffic flow.

Councilor Hardesty also voiced concern about the bike traffic and questioned if there is a review of the bikeway plan for traffic changes on Third Street.

Dick Larson, public works and utilities department director, replied that there is no bike lane on Third Street and that he is not aware of any bikeway plan for that street. He also stated that if Third Street became a two way street, the same would have to be done with Second Street, and that project would need more study.

Councilor Hogg moved to retable the ordinance, which motion was seconded and failed upon the following vote:

Yeas: Councilors Hardesty, Hogg and Swapinski -- 3

Nays: Councilors Edwards, Gilbert, Prettner Solon, Rapaich and President Keenan -- 5

Absent: Councilor Hales -- 1

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

Yeas: Councilors Edwards, Gilbert, Hardesty, Prettner Solon, Rapaich and President Keenan -- 6

Nays: Councilors Hogg and Swapinski -- 2

Absent: Councilor Hales -- 1

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The following entitled ordinance was read for the first time:

BY COUNCILOR PRETTNER SOLON

99-014 - AN ORDINANCE TO RENAME A PORTION OF LAVAQUE STREET AS 64TH AVENUE WEST (ENGINEERING DIVISION & RESIDENTS).

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR HOGG

99-011 (9411) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$305,000 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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

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BY COUNCILOR HOGG

99-012 (9412) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$2,500,000 GENERAL OBLIGATION BONDS (GREAT LAKES AQUARIUM PROJECT) OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

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

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BY COUNCILOR HOGG

99-013 (9413) - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1999 DECREASING THE BUDGET BY REDUCING THE APPROPRIATION AUTHORITY.

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 10:15 p.m.

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

- - -

ORDINANCE NO. 9410

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE GRANTING ST. MARY'S DULUTH CLINIC (SMDC) MEDICAL CENTER A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN AN EXPANDED SKYWALK OVER EAST THIRD STREET AND A CLINIC DROP OFF AND LOADING AREA ALONG THE SOUTH SIDE OF EAST THIRD STREET BETWEEN FOURTH AVENUE AND FIFTH AVENUE EAST (SMDC).

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to St Mary's Duluth Clinic Medical Center, their successors and interests, referred to herein as the permittees, to occupy, erect and maintain a skywalk in that part of East Third Street 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, described as follows: Aerial Skywalk across East Third Street, Duluth Proper First Division, city of Duluth, St. Louis County, state of Minnesota, described as follows: A 33 foot wide strip 16.5 feet above Third Street, described as follows: Commencing at the intersection of the southerly right-of-way line of Third Street with the westerly right-of-way line of Fifth Avenue East; thence westerly along said southerly right-of-way line of Third Street, 182 feet, to the point of beginning; thence northerly, perpendicular to said southerly right-of-way line, 66 feet, to an intersection with the northerly right-of-way line of Third Street; and there terminating; and

Drop-off zone strip along the southerly right-of-way of East Third Street, Duluth Proper First

Division, city of Duluth, St. Louis County, state of Minnesota, described as follows: A 13 foot wide strip of land for patient drop-off purposes, the southerly line being described as follows: Commencing at the intersection of the southerly right-of-way line of Third Street with the westerly right-of-way line of Fifth Avenue East; thence westerly along said southerly right-of-way line, 32.5 feet, to the point of beginning; thence continuing along said southerly right-of-way line, 133 feet, to an intersection with the easterly line of the above described skywalk strip description, and there terminating.

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 skywalk and/or traffic control improvements, 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 skywalk and/ or traffic control improvements, shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said East Third Street and agree that the city of Duluth shall not be liable for damage caused to such skywalk and/or traffic control improvements, while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such skywalk in said East Third Street.

Section 6. That the construction of the skywalk be limited to and in substantial compliance with the plans submitted by Perkins & Will/LHB, entitled and dated, "Concept B, 3rd Street Drop Off," SMDC, St. Mary's/Duluth Clinic Health System, dated 10/12/98 and on file in the office of the city clerk as Public Document No. 99-0426-25.

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 6, 1999)

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

Yeas: Councilors Edwards, Gilbert, Hardesty, Prettner Solon, Rapaich and President Keenan -- 6

Nays: Councilors Hogg and Swapinski -- 2

Absent: Councilor Hales -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 26, 1999
Approved April 26, 1999
GARY L. DOTY, Mayor

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ORDINANCE NO. 9411

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$305,000 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 25 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 \$305,000, 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 \$305,000 (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 has created and maintains the capital improvement special account within the Duluth transit support 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 account on condition that such amounts be reimbursed from bond proceeds.

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

Section 4. TAX LEVY.

4.01 There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the city of Duluth, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than 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: June 3, 1999)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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

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

Nays: None -- 0

Absent: Councilor Hales - 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed April 26, 1999

Approved April 26, 1999

GARY L. DOTY, Mayor

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ORDINANCE NO. 9412

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$2,500,000 GENERAL OBLIGATION BONDS (GREAT LAKES AQUARIUM PROJECT) OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01 The city council has determined it to be necessary and expedient and in the public interest that the city participate in the development of a fresh water education facility, including a fresh water aquarium within the city (the "project") with Lake Superior Center authority, Lake Superior Center and the Duluth economic development authority ("DEDA"). The city, DEDA, Lake Superior Center authority and Lake Superior Center have entered into a series of development agreements regarding development and financing of the project.

1.02 Under the provisions of Minnesota Laws 1974, Chapter 130, the city council may by ordinance provide for the issuance of general obligation bonds to provide the funds necessary to match state, private or federal grant funds for projects within the city's boundaries, which bonds are to be supported by the full faith and credit of the city and are to be issued subject to the provisions of Minnesota Statutes, Chapter 475, except that they may exceed the limitations in Minnesota Statutes, Section 475.53, by an amount not to exceed \$2,000,000, and they may not be issued if the city's contribution to the project, including the proceeds of the bonds, exceeds 60 percent of the total project cost where such contribution is used to match state or federal grants, or 70 percent where it is used to match government and private grants, or 80 percent where it is used to match private grants alone. The project is of the nature contemplated by said law. Lake Superior Center authority has received grants from private contributors and grant funds have been appropriated by the state of Minnesota to aid the project. Based on such grants received to date, the amount of the city's contribution for the project from the proceeds of bonds, as further described in Section 1.03 below, or otherwise, will not exceed the limitations set forth in said law.

1.03 Pursuant to the authority herein recited, the city council authorizes and directs the issuance and sale of general obligation bonds of the city to finance a portion of the construction costs of the project in an amount not to exceed \$2,500,000, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds.

Section 2. TERMS OF BONDS.

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

Section 3. REVENUES AND ACCOUNTS.

3.01 All or a portion of the proceeds of the bonds, as provided by council resolution, shall be credited to a separate account within Capital Improvement Fund No. 450, together with any additional funds which may be available and are appropriated for the project or which may be advanced to such account on condition that such amounts be reimbursed from bond proceeds.

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

Section 4. SALES TAX PLEDGE.

4.01 There shall be and is hereby pledged the proceeds of sales tax revenues, as authorized by Laws of Minnesota 1980, Chapter 511, Section 1, Subdivision 2, and sections 2 and 3, as amended, in amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on such bonds as such principal and interest respectively become due. Until the bonds to be issued hereunder are fully paid or duly called for redemption, the city will also maintain a separate debt service account within the debt service fund created by Section 54 of the City Charter, to be used solely for the payment of the interest and the principal, respectively, as such principal and interest become due and payable, on the bonds issued hereunder and on any other bonds which have been or may be issued and made payable from said account. If the balance is ever insufficient to pay all principal and interest then due on the bonds issued hereunder, the treasurer shall nevertheless provide sufficient money from any other funds of the city which are available for that purpose, and such other funds shall be reimbursed from such debt service account when the balance therein is sufficient. Proceeds of said sales tax revenues are hereby appropriated and shall be paid into such account. It is estimated that the sales tax revenues herein pledged and appropriated to said fund will be received at the times and in amounts not less than five percent in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the city's liability on the bonds is not limited to the sales tax revenues so pledged, and the city council covenants and agrees that it will levy upon all taxable property within the city, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the bonds, without limitation as to rate or amount. After this ordinance has been published and becomes effective, the city council shall by resolution fix the precise amounts of such sales tax revenues pledged for payment of principal and interest on such bonds for each of the respective years required to comply with the provisions of this ordinance.

Section 5. CERTIFICATE OF PROCEEDINGS.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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

Section 6. EFFECTIVE DATE.

6.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 3, 1999)

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

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

Nays: None -- 0

Absent: Councilor Hales -- 1

Passed April 26, 1999
Approved April 26, 1999
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

ORDINANCE NO. 9413

BY COUNCILOR HOGG:

AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF
DULUTH FOR THE YEAR 1999 DECREASING THE BUDGET BY
REDUCING THE APPROPRIATION AUTHORITY.

The city of Duluth does ordain:

Section 1. That Ordinance 9396 passed and approved December 14, 1998, is hereby amended by reducing the appropriation authority by \$135,000 from the general fund's operating budget as follows:

Department 700 - transfers \$135,000

Section 2. That this ordinance will take effect and be in force immediately upon its passage. (Effective date: April 26, 1999)

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

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

Nays: None -- 0

Absent: Councilor Hales -- 1

Passed April 26, 1999
Approved April 26, 1999
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 10, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of the council meeting held on March 15, 1999, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0510-11 Gary-New Duluth Community Club submitting letter regarding application of DLS/Veit for a special use permit to operate a demolition landfill (99-0395R). -- Received

99-0510-18 Darlene Virta submitting information regarding the Women's Coalition special use permit. -- Received

99-0510-01 The following submitting letters regarding speed regulations in the Duluth ship canal (99-0359R): (a) David Sorenson; (b) 242 Yacht Club. -- Received

- - -

REPORTS OF OFFICERS

99-0510-02 Assistant city attorney submitting lease agreement between city of Duluth and the St. Louis & Lake Counties Regional Railroad Authority for the exclusive use of Municipal Lot D for the period June 1 through September 30, 1999, pursuant to Sec. 2-35 of the Duluth City Code. -- Mayor for execution

99-0510-03 Community development and housing division submitting HRA housing rehabilitation report for January, February and March, 1999. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

99-0510-04 Board of zoning appeals minutes of March 23, 1999, meeting. -- Received

99-0510-05 Civil service board minutes of: (a) January 21; (b) March 11, 1999, meetings. -- Received

99-0510-06 Duluth airport authority: (a) Minutes of March 16, 1999, meeting; (b) Balance sheet of February 28, 1999. -- Received

99-0510-07 Housing and redevelopment authority minutes of March 30, 1999, meeting. -- Received

99-0510-08 Human rights commission minutes of March 15, 1999, meeting. -- Received

99-0510-09 Sanitary sewer board for the WLSSD minutes of April 19, 1999, meeting. -- Received

99-0510-10 Special assessment board minutes of April 13, 1999, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Darlene Virta presented materials (Public Document No. 99-0510-18) questioning the procedures that have to followed when a special use permit is issued and, when there are changes, what procedures have to be followed. In questioning the plans of the Women's Coalition with their special use permit, she sighted the special use permit a developer of a 415 unit on Rice Lake Road that needed to come back to the council for the approval of one additional unit. In

conclusion, Ms. Virta questioned how the Women's Coalition can make the changes that they are doing and not have to come back to the planning commission and city council.

To Councilor Hogg's inquiry, City Attorney Dinan stated that Jim Mohn, of the physical planning division, and Assistant City Attorney Robert Asleson are preparing a response to these questions.

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR EDWARDS:

RESOLVED, that Booming Native Plants be and hereby is awarded a contract for furnishing and delivering various quantities of grass plants and wildflowers for Lakewalk planting for the street/park maintenance division in accordance with specifications on its low specification bid of \$6,200, terms net 30, FOB shipping point, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1997, Object C716.

Resolution 99-0298 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Duluth Lawn and Sport, Inc., be and hereby is awarded a contract for furnishing and delivering two six wheel utility vehicles for the street/park maintenance division in accordance with specifications on its low specification bid of \$18,025.13, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2009, Object V905.

Resolution 99-0381 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Cushman Motor Company, Inc., be and hereby is awarded a contract for furnishing and delivering a three wheel ballfield groomer for the street/park maintenance division in accordance with specifications on its low specification bid of \$8,472.08, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2009, Object V906.

Resolution 99-0383 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

TECHNICAL DESIGN ADVISORY COMMITTEE for the Downtown Waterfront Mixed Use-Design Review District

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Kenneth Johnson (architect) and Dan R. McClelland (at large) for terms expiring May 31, 2002.

Resolution 99-0361 was unanimously adopted.
Approved May 10, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

LAWFUL GAMBLING COMMISSION

D. Edward Fitzgerald and Edwin S. Levey for terms expiring April 30, 2002.

Resolution 99-0362 was unanimously adopted.
Approved May 10, 1999
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 Myrtle Street legally described as: Myrtle Street adjacent to Lots 1 and Lot 16, Block 33, and Lots 8 and 9, Block 23, Duluth Heights sixth Division; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its April 13, 1999, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of that portion of Myrtle Street described above, and as more particularly described on Public Document No. 99-0510-12.

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

Resolution 99-0334 was unanimously adopted.
Approved May 10, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into community development block grant (CDBG) program agreements with the entities listed below in the amount set forth below with regard thereto, said agreements substantially in the form of those on file in the office of the city clerk as Public Document No. 99-0510-13, payable from 1999 Federal Program 262, Agency 622.

<u>Account</u>	<u>Amount</u>	<u>Economic development projects</u>
6223	\$32,000	Happy Hot Spas commercial improvements
6224	\$60,000	YWCA child care development.

Resolution 99-0369 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved May 10, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into community development block grant (CDBG) program agreements with the service providers listed below in the amounts set forth below with regard thereto, said agreements substantially in the form of those on file in the office of the city clerk as Public Document No. 99-0510-14, payable from as follows: \$1,000 from 1998 Federal Program Fund 262, Agency 621, and \$1,405,000 from 1999 Federal Program Fund 262, Agency 622.

<u>Account</u>	<u>Amount</u>	<u>Housing Development Project</u>
6101	\$250,000	Neighborhood Housing Services of Duluth, Inc.
6201	\$1,000	Neighborhood Housing Services of Duluth, Inc.
6202	\$220,000	SVCNDA-West Duluth revitalization Phase II
6203	\$720,000	HRA-Duluth property rehabilitation program
6204	\$15,000	Life House, Inc.- LIFELINE PROJECT
6205	\$200,000	AEOA weatherization (regular).

Resolution 99-0370 was unanimously adopted.

Approved May 10, 1999
GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that Dean's Trucking, Inc., be and hereby is awarded a contract for furnishing and delivering 366 cubic yards of trap sand, 80/20 green mix sand and dry engine sand for the golf courses in accordance with specifications on its low specification bid of \$8,243.99 terms net 30, FOB job sites, payable out of Golf Fund 503, Dept./Agency 400, Organization 0500, Object 5229.

Resolution 99-0385 was unanimously adopted.

Approved May 10, 1999
GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that M.T.I. Distributing, Inc., be and hereby is awarded a contract for furnishing and delivering two greens mowers, traction drive type, hydrostatics with parking brakes for the Lester Park golf course in accordance with specifications on its low specification bid of \$22,748.40, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object 5580.

Resolution 99-0388 was unanimously adopted.

Approved May 10, 1999
GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

WHEREAS, the Duluth Softball Players Association has been assisting the city for over a decade to improve the softball playing fields at the Wheeler Athletic Complex and has donated hundreds of thousands of dollars toward this end; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

WHEREAS, the construction of Wheeler Field No. 1, which includes lights, an electronic scoreboard and an automated irrigation system, completes the four spoke complex for softball fields that was started in 1988; and

WHEREAS, the city of Duluth wishes to express its gratitude for the efforts and financial support of the Duluth Softball Players Association in the development of the Wheeler Athletic Complex.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby accepts the above mentioned gifts and extends its deepest thanks and gratitude to the Duluth Softball Players Association for their efforts and financial support in the development of the Wheeler Athletic Complex.

RESOLVED FURTHER, that the city clerk is directed to send a certified copy of this resolution to the Duluth Softball Players Association as a message of thanks.

Resolution 99-0393 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that Mike Redmond be and hereby is awarded a contract for furnishing and delivering approximately 1,400 bags of fertilizers for the golf courses in accordance with specifications on its low specification bid of \$29,125.09, terms net 30, FOB shipping point, payable out of Golf Fund 503, Dept./Agency 400, Organization 0500, Object 5229.

Resolution 99-0394 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to accept \$12,270 in job training partnership act five percent incentive funds from the Minnesota department of economic security in accordance with Grant 8040401 and the five percent mini-plan as approved. Funds are available for the time period from April 1, 1999, through September 30, 2000. Funds received will be deposited in Fund 268, Budget item 6230.

Resolution 99-0360 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proper city officers are hereby authorized and directed to execute the real property purchase agreement, on file as Public Document No. 99-0510-15, for the acquisition of real property described as follows: the southerly 20 feet except the easterly 38.89 feet of Lot 260, Block 32, Duluth Proper Second Division, including 4½ feet of vacated part of Garfield Avenue; for a consideration of \$900, to be paid from Gas Fund 520, Agency 900, Org. 0505, Object 5510.

Resolution 99-0372 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

WHEREAS, the city of Duluth desires to complete a Phase II environmental site assessment for the Duluth gas manufacturing plant #2; and

WHEREAS, the city desires to hire a professional engineer firm to provide the engineering services required for environmental engineering and testing services related to conduct a limited subsurface investigation at the Duluth gas manufacturing plant #2; 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 \$15,000, will be payable from the Gas Fund 520, Dept./Agency 900, Organization 0500, Object 5319.

Resolution 99-0382 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Pan American Pipe and Alloy, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 32 gas gate valves for the gas division in accordance with specifications on its low specification bid of \$38,785.70, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 99-0384 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to acquire the following described temporary construction and permanent easements from Paul M. Winship for the consideration of \$9,900, payable from the Storm Water Fund 535-500-0505:

A temporary easement for storm sewer construction, to expire December 31, 1999, across the following described property:

That part of Lot 11 and 12, Block E, London Addition to Duluth, as recorded in the St. Louis County Recorder's Office, Minnesota, said easement is bounded on the north by the north line of said Lots 11 and 12; on the west by a line parallel with and 5.00 meters westerly of the east line of said Lot 11; on the south by a line parallel with and 12.10 meters southerly of said north line of Lots 11 and 12; on the east by a line parallel with and 3.20 meters easterly of said east line of Lot 11; and

Also bounded on the north by a line parallel with and 19.70 meters southerly of said north line of Lots 11 and 12; on the west by a line parallel with and 5.00 meters westerly of the east line of Lot 11; on the south by the top of embankment of the shore of Lake Superior; on the east by a line parallel with and 2.00 meters easterly of said east line of Lot 11; and

A permanent easement for storm sewer purposes across the following described property:

That part of Lot 12, Block E, London Addition to Duluth, as recorded in the St. Louis County Recorder's Office, Minnesota, said easement is bounded on the north by the north line of said Lot 12; on the west by a line parallel with and 3.20 meters easterly of the west

line of said Lot 12; on the south by a line parallel with and 19.70 meters southerly of said north line of Lot 12; on the east by a line parallel with and 4.57 meters (15.00 feet) easterly of said west line of Lot 12; and

Also bounded on the north by a line parallel with and 19.70 meters southerly of said north line of Lot 12; on the west by a line parallel with and 2.00 meters easterly of the west line of said Lot 12; on the south by the top of embankment of the shore of Lake Superior; on the east by a line parallel with and 4.57 meters (15.00) easterly of said west line of Lot 12.

Resolution 99-0368 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to acquire the following described temporary construction and permanent easements from Paul E. Zimmerman and Karen R. Zimmerman for the consideration of certain real property improvements to be made by the city worth approximately \$12,400, said improvements funded from the Storm Water Fund 535-500-0505:

A temporary easement for storm sewer construction, to expire December 31, 1999, across property described as that part of Lot 12, Block E, London Addition to Duluth, as recorded in the St. Louis County Recorder's Office, Minnesota, said easement is bounded on the north by the north line of said Lot 12; on the west by a line parallel with and 8.12 meters easterly of the west line of said Lot 12; on the south by a line parallel with and 12.40 meters southerly of said north line of Lot 12; on the east by a line parallel with and 10.78 meters easterly of said west line of Lot 12; and

Also bounded on the north by a line parallel with and 19.66 meters southerly of said north line of Lot 12; on the west by a line parallel with and 8.12 meters easterly of the west line of said Lot 12; on the south by the top of embankment of the shore of Lake Superior; on the east by a line parallel with and 10.78 meters easterly of said west line of Lot 12; and

A permanent easement for storm sewer purposes across property described as that part of Lot 12, Block E, London Addition to Duluth, as recorded in the St. Louis County Recorder's Office, Minnesota, said easement is bounded on the north by the north line of said Lot 12; on the west by a line parallel with and 4.57 meters (15 meters) easterly of the west line of said Lot 12; on the south by the top of embankment of the shore of Lake Superior; on the east by a line parallel with and 8.12 meters easterly of said west line of Lot 12.

Resolution 99-0371 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Kraemer Construction, Inc., be and hereby is awarded a contract for reconstruction of Bridge Number L8517 on Vermilion Road over Tischer Creek for the engineering division in accordance with specifications on its low specification bid of \$187,291.29, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2132, Object 5530.

Resolution 99-0380 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Larson Chevrolet Oldsmobile, Inc., be and hereby is awarded a contract for furnishing and delivering a 1999 Chevrolet construction van with compressor, generator, crane and rail lift gate for the sewer division in accordance with specifications on its low specification bid of \$58,403.54, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 99-0387 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Northland Constructors, Inc., be and hereby is awarded a contract for construction of Lincoln Park Goat Hill 1999 street improvement project for the engineering division in accordance with specifications on its low specification bid of \$526,052.28, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9903, Object 5530.

Resolution 99-0391 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Glacier Paving, Inc., be and hereby is awarded a contract for the fine mix paving program for the engineering division in accordance with specifications on its low specification bid of \$138,825, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9909, Object 5530.

Resolution 99-0392 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a supplemental agreement with city of Duluth Supervisory Association; said agreement to contain the terms and conditions and be in substantially the same form as the contract on file with the city clerk as Public Document No. 99-0510-16.

Resolution 99-0315 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0376, by Councilor Hogg, supporting the concept of a multigenerational community center on the waterfront, was introduced for discussion.

Councilor Hogg moved to remove the resolution from the agenda, because other similar resolutions have been removed, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR HOGG:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

1. Authorization of Bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the City and its residents, that the City should issue its general obligation bonds for the following purposes: \$6,855,000 General Obligation Bonds, Series 1999C, are hereby authorized and shall be issued for the purpose of (i) financing costs of the Duluth Transit Authority to purchase 15 of the 25 new transit buses, as authorized by Laws of Minnesota 1974, Chapter 130, and Ordinance No. 9411, adopted April 26, 1999, and (ii) financing the 1999 street improvement program, including payment of part of the interest cost of such bond issue and expenses incurred in the issuance of the bonds, pursuant to Minnesota Statutes, Chapter 475 and the City Charter.

2. Issuance and Sale of Bonds. The terms and conditions of the Bonds and the sales thereof are set forth in the Official Terms of Offering, which are attached hereto as Exhibit A. Each and all of the terms and provisions set forth in the Official Terms of Offering are adopted and confirmed as the terms and conditions of the Bonds and the sales thereof, and the City Council shall meet at the time and place fixed herein to consider proposals for the purchase of the Bonds.

3. Negotiated Sale. Evensen Dodge, Inc., independent financial advisor to the City, is hereby authorized to solicit proposals for the sale of the Bonds as provided by Minnesota Statutes, Section 475.60, subdivision 2(9).

4. Subsequent Resolution. The form, specifications and provisions for repayment of the Bonds shall be set forth in subsequent resolutions of this City Council.

Resolution 99-0378 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0405, by Councilor Hogg, authorizing the issuance and providing for the sale of \$3,900,000 general obligation tax increment bonds, Series 1999D, was introduced for discussion.

Councilor Swapinski noted his concerns regarding the leases signed to date for the technology village and added that he has not received copies of them and that the repayment for the parking ramp bonds is based on the anticipated revenue of the parking ramp to meet the debt service of the bonds.

Resolution 99-0405 was adopted as follows:

BY COUNCILOR HOGG:

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

1. Authorization of Bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the City and its residents, that the City should issue its general obligation bonds for the following purposes: 3,900,000 General Obligation Tax Increment Bonds, Series 1999D, are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Section 469.178, Subd. 2, and Chapter 475, for the purpose of providing funds to pay a portion of the construction costs of a parking facility for the Technology Village project and improvements to the City's Depot Parking Ramp and the Superior Street Parking Ramp and to pay certain expenses incurred in the issuance of the bonds.

2. Issuance and Sale of Bonds. The terms and conditions of the Bonds and the sales thereof are set forth in the Official Terms of Offering, which are attached hereto as Exhibit A. 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

3. Negotiated Sale. Evensen Dodge, Inc., independent financial advisor to the City, is hereby authorized to solicit proposals for the sale of the Bonds as provided by Minnesota Statutes, Section 475.60, subdivision 2(9).

4. Subsequent Resolution. The form, specifications and provisions for repayment of the Bonds shall be set forth in subsequent resolutions of this City Council.

Resolution 99-0405 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Hogg, Prettnner Solon, Rapaich and President Keenan -- 8

Nays: Councilor Swapinski -- 1

Approved May 10, 1999

GARY L. DOTY, Mayor

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At this time, 8:05 p.m., the public hearing regarding the DTA teen pass summer fare began.

Mr. Jim Helig, Duluth transit authority (DTA), noted that for sometime the DTA has discounted the teen pass and that they have sold considerably more passes than when there has not been a teen summer fare special. He noted that, in addition to bringing the teen pass down from \$23 to \$15, there is a three month summer pass for \$30. Mr. Helig noted that, working with the Teen Alliance, economical travel has been reviewed as a barrier for the junior high population to move around the city and that it was thought that this program will help to allow youth to participate in activities in the city.

K.L. Lewis voiced her support for the program and thought that it would be great for adults also.

At this time, 8:10 p.m., the hearing ended and the regular order of business was resumed.

- - -

Resolution 99-0300, by Councilor Prettnner Solon, authorizing proper city officials to enter into an agreement With Soft Center Duluth to support the operation of Soft Center Duluth at a cost of \$125,000, was introduced for discussion.

To Administrative Assistant Hartl's request of returning this resolution to the administration, Councilor Hogg moved to refer the resolution back to the administration, which motion was seconded and unanimously carried.

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Resolution 99-0375, by councilors Prettnner Solon and Hales, establishing the Mira M. Southworth Lake Superior Wetlands Preserve located on city-owned property at 41st Street and Minnesota Avenue, was introduced for discussion.

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

Dave Johnson, president of the Park Point Community Club, voiced support for the resolution and thanked all who have worked with them to achieve this goal.

Resolution 99-0375 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, protection of Lake Superior and its water quality are fundamental priority to our region for environmental and economic reasons; and

WHEREAS, a city owned parcel located between South 41st and 42nd Streets west of Minnesota Avenue has been identified as a wetland with endangered and sensitive species, which property, located in St. Louis County, Minnesota, is legally described as that portion of the Plat of Oatka Beach Addition to Duluth lying between the southeasterly line of Lot 20, Block 1, thereof as the same is extended to the southwest and the southeasterly line of Lot 43, Block 4 thereof as

the same is extended to the southwest, and southwest of the southwesterly right-of-way line of platted Minnesota Avenue, including riparian rights; and

WHEREAS, the positive contributions of the late Mira M. Southworth to her community and to Duluth's Central High School where she taught are still being felt and appreciated by those whose lives she touched; and

WHEREAS, her high regard for the Minnesota Point environment led her to photograph it extensively, preserving impressions of it for future generations; and

WHEREAS, her work, talent and vibrant life show her to be a woman of outstanding character and a superb role model many years after her passing, truly deserving of recognition.

NOW, THEREFORE, BE IT RESOLVED, that, the above described parcel of property is hereby designated the Mira M. Southworth Lake Superior Wetland Preserve.

BE IT FURTHER RESOLVED, that, the city hereby declares its intent to have enforced all applicable laws, ordinances, rules and regulations regarding the use of said property and further declares its intent not to allow the use of off-road vehicles, camping, permanent structures, excavating or damage to or removal of vegetation.

Resolution 99-0375 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0379, by Councilor Prettner Solon, authorizing purchase agreement and lease agreement with U.S. Bank Corporate Properties pertaining to the Tech Village parking ramp in the amount of \$685,000, was introduced for discussion.

To Councilor Swapinski's questions, Todd Torvinen, finance department director, explained that the city is required, under federal regulations, to go with the appraised value that is determined by the city.

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

K.L. Lewis thought that the ramp would have value for general public parking, at least until the soft center is totally built, and the city should consider managing it that way initially.

Resolution 99-0379 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into a purchase agreement and a lease agreement, copies of which are on file with the office of the city clerk as Public Document Nos. 99-0510-17(a) and 99-0510-17(b), respectively, with U.S. Bank Corporate Properties for the purchase of the bank's drive in banking facility at Lake Avenue and First Street for the technology village parking ramp project and the construction and lease to the bank of a new drive-in banking facility as part of said project, in the amount of \$685,000, payable from Fund 425.

Resolution 99-0379 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

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Resolution 99-0395, by Councilor Prettner Solon, denying 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.

Councilors raised concerns about some of the changes in the replacement resolution and that the reasons stated for denial should, like the prior denial resolution, be more specific.

Councilors Hales and Edwards noted that some of the statements in the resolution are reflecting conditions that city staff have previously stated have been met.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Councilor Prettner Solon requested that the points in the letter (Public Document No. 99-0510-11) from the Gary-New Duluth Community Club be addressed by the physical planning division and further moved to refer the resolution back to the administration, which motion was seconded and unanimously carried.

- - -

BY PRESIDENT KEENAN:

WHEREAS, the Duluth transit authority has been working with the Northland Foundation and the transportation task force of the Duluth Alliance for Youth; and

WHEREAS, the above named groups have noted transportation barriers that exist for many of Duluth's young people; and

WHEREAS, to reduce those barriers the Duluth transit authority has proposed to reduce the cost of the teen pass for the summer of 1999 by establishing a DTA youth rider summer special; and

WHEREAS, the city council has held a public hearing on the requested fare change at its May 10, 1999, meeting prior to consideration of this resolution;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves the request of the Duluth transit authority to change the fare for the teen pass by offering a DTA youth rider summer special so that passes for the months of June, July and August of 1999 will cost \$15 each or \$30 for all three months.

Resolution 99-0399 was unanimously adopted.

Approved May 10, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0386, by Councilor Gilbert, awarding contract to Carlson Brothers, Inc., for replumbing gas piping and gas meter resetting at various locations, in the amount of \$36,545, was introduced for discussion.

To Mr. Hartl's responses to the concerns of Councilor Hogg regarding the bidding process, Councilor Hogg moved to refer the resolution back to the administration for further review of the bidding process, which motion was seconded and unanimously carried.

- - -

Resolution 99-0389, by Councilor Gilbert, setting a policy on capital improvements funded by the stormwater utility, was introduced for discussion.

Councilor Gilbert noted that there is a committee meeting next Monday on this resolution and moved to table the resolution until that meeting, 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

99-014 (9414) - AN ORDINANCE TO RENAME A PORTION OF LAVAQUE STREET AS 64TH AVENUE WEST (ENGINEERING DIVISION & RESIDENTS).

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

- - -

The meeting was adjourned at 8:42 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9414

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE TO RENAME A PORTION OF LAVAQUE STREET
AS 64TH AVENUE WEST (ENGINEERING DIVISION & RESI-
DENTS).

The city of Duluth does ordain:

Section 1. That the following public thoroughfare shall be and is hereby renamed as 64th Avenue West: that portion of Lavaque Street beginning at its point of intersection of the centerline 63rd Avenue West and extending west to the west line of 64th Alley West in the plat of Hunters Grassy Point Addition 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; and

(c) Notify the following agencies and utilities of the specific changes:

(1) Business office of U.S. West Communications;

(2) Manager of delivery and collection, main post office;

(3) County auditor, St. Louis County;

(4) President, Minnesota Power;

(5) Chief, Duluth fire department;

(6) Chief, Duluth police department;

(7) Director, department of water and gas;

(8) City assessor;

(9) Voter registration department;

(10) Minnesota department of transportation;

(11) St. Louis County 911 agency.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 20, 1999)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed May 10, 1999

Approved May 10, 1999

GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 24, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of the council meeting held on March 22, 1999, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0524-01 Richard G. Bates, et al. (two signatures) submitting petition to vacate street easement identified as Fairbanks Avenue in the Ridgeview Heights development, Plat 3963. -- Assessor

99-0524-35 Dennis D. Childs, et al. (two signatures) submitting petition to vacate 30 feet of west side of Summit Avenue (11th Avenue West), one foot east of the structure at 123 North 11th Avenue West. -- Assessor

99-0524-02 Minnesota state auditor submitting Duluth transit authority audit report for the years ended December 31, 1998, and 1997. -- Received

99-0524-03 Arrowhead Equipment Company submitting acceptance of terms, conditions, and provisions of concurrent use permit granted by Ordinance No. 9408 on March 22, 1999. -- Received

99-0524-04 Canal Park Square, Inc., Canal Park Antique Mall, submitting acceptance of terms, conditions, and provisions of concurrent use permit granted by Ordinance No. 9404 on March 15, 1999. - Received

99-0524-36 The following submitting communications regarding Opus Development Corporation (99-0449R): (a) Barbara Bowling; (b) Opus Corporation, by William M. Burns, attorney. -- Received

- - -

REPORTS OF OFFICERS

99-0524-05 Assessor submitting for confirmation the assessment rolls levied to defray the assessable portions of development of Hartley Estates Phase 3, street sewer, water and gas mains (Contract Nos. 5311, 1198021, 1198022, \$348,828.46 assessable); permanent street for Arrowhead Road from 200 feet west of Kenwood to Dodge Street, Kenwood Avenue from Cleveland to Howard Gnesen and Howard Gnesen from Kenwood Avenue to Victoria Street (Contract No. #5285, \$29,580.70 assessable); permanent alley for Second Street Alley from 14th to 15th Avenues East (Contract No. 5305, \$22,022.19 assessable). -- Clerk

99-0524-06 Engineering division submitting monthly project status report of May 1, 1999. -- Received

99-0524-07 Property management manager submitting lease agreement between city of Duluth and Jerry Hoover for a popcorn wagon at Canal Park (Marine Museum) parking lot during the summer season, pursuant to Section 2-35 of the Duluth City Code. -- Mayor for execution

- - -

REPORTS OF BOARDS AND COMMISSIONS

99-0524-08 Alcoholic beverage board minutes of April 14, 1999, meeting. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

- 99-0524-09 Heritage preservation commission minutes of April 14, 1999, meeting. -- Received
- 99-0524-10 Lawful gambling commission minutes of April 13, 1999, meeting. -- Received
- 99-0524-11 Planning commission minutes of: (a) April 13; (b) April 28, 1999, meetings. -- Received
- 99-0524-12 Sanitary sewer board of WLSSD minutes of May 3, 1999, meeting. -- Received
- 99-0524-13 Seaway Port authority of Duluth minutes of March 30, 1999, meeting. -- Received
- 99-0524-34 Special assessment board:
- (a) Minutes of March 4, 1999, meeting;
 - (b) Report, minutes and recommendation for the proposed construction of bituminous overlay on Blackman Avenue from MacFarlane Road to Arrowhead Road and MacFarlane Road from Blackman Avenue to Howard Gnesen Road. -- Received
- 99-0524-14 Tree commission minutes of April 13, 1999, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Tom Allnew urged all people to give thanks for the recent Supreme Court decision that gives citizens relief from state oppression.

- - -

Darlene Virta voiced her concern that the information that she has received from the physical planning division regarding the square footage of the building for the Women's Coalition transitional housing project is confusing, as the numbers keep changing. She urged the council to review the building's purpose as presented at the January 27, 1997, council meeting, since it has changed.

Randy Virta reviewed that Councilor Gilbert called a meeting between the coalition and the neighborhood to discuss the possibility of sharing with the neighborhood some of the coalition's property that would not be used for the new building. He continued by saying that the meeting stalled when the coalition demanded that Darlene Virta not come before the council and speak negatively of the Women's Coalition or their property. Mr. Virta stated that the action of the coalition portrays a poor picture of the organization.

- - -

RESOLUTIONS TABLED

Councilor Prettner Solon moved to remove Resolution 99-0359, giving preliminary approval to an ordinance amending Section 26-10 of the City Code relating to speed regulations in the Duluth Ship Canal, from the table, which motion was seconded and unanimously carried.

Councilor Prettner Solon reviewed that this resolution will continue a process that was started with the Minnesota department of natural resources (DNR) to try to regulate the speed of traffic in the canal to make it as safe as possible. She urged passage of this resolution, as it is consistent with what the DNR has recommended throughout Minnesota and urged that signage be put up at each entrance to the canal so people are aware that it is a no wake zone.

Councilor Hogg reviewed that there is a current ordinance that regulates the speed limit in the canal, but that it has never been enforced. He continued by saying that there are no other waterways in Minnesota that are the same as the canal and what works for the inland waterways doesn't mean it is the right solution for the canal. Councilor Hogg also suggested that the administration get involved in this issue to get all the information possible before making this decision.

Councilor Hales reviewed that she has talked with the U.S. Coast Guard, who started discussion with the DNR last September and the operator of the lift bridge, and all of the parties who have the knowledge of waterways are supportive of the action being brought before the council. She continued by saying that she was approached by the Coast Guard last fall about problems in the canal with some possible changes, and City Attorney Dinan has directed the council through the process by changing the ordinance. Councilor Hales stated that the St. Louis County sheriff's department would be the enforcing agency in the canal. She went on to say that this resolution will send the revised ordinance to the DNR for review and comment and it will come back to the council for a final vote.

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

K.L. Lewis agreed that the city needs to work with all agencies that deal with the waterways in order to obtain as much information as possible before making a change to the ordinance.

Resolution 99-0359 was adopted as follows:

BY COUNCILORS PRETTNER SOLON AND HALES:

WHEREAS, the city council is considering the adoption of an ordinance amending Section 26-10 of the City Code establishing new speed regulations in the Duluth Ship Canal, which ordinance is on file in the office of the city clerk as Public Document No. 99-0524-15; and

WHEREAS, on April 26, 1998, the city council held a public hearing to receive public input on such proposed ordinance as required by state law;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby gives preliminary approval to such ordinance, and directs the city attorney to send such ordinance to the Minnesota department of natural resources for its approval as required by state law.

Resolution 99-0359 was adopted upon the following vote:

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

Nays: Councilors Hogg and Swapinski -- 2

Approved May 24, 1999

GARY L. DOTY, Mayor

- - -

President Keenan moved to remove Resolution 99-0165, authorizing the increase in rental fees at Wade Stadium, from the table, which motion was seconded and unanimously carried.

President Keenan moved to return the resolution back to the administration, which motion was seconded and unanimously carried.

- - -

Councilor Gilbert moved to remove Resolution 99-0389, setting a policy on capital improvements funded by the stormwater utility, from the table, which motion was seconded and unanimously carried.

Resolution 99-0389 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, the stormwater utility fund was created to provide for the maintenance, administration and capital improvements to the stormwater system of the city of Duluth including all existing constructed and natural stormwater drainage facilities and channels of the city and all improvements to these facilities made by the city; and

WHEREAS, improvements funded by the stormwater utility fund will conserve water, control discharges and heavy rainfalls, and reduce flooding, over drainage, and environmental degradation including water pollution; and

WHEREAS, the stormwater utility fund is a limited resource and its resources must be judiciously used to maximize the public good; and

WHEREAS, the city engineer has prepared a list of capital improvements which he feels should be eligible for stormwater utility funding; and

WHEREAS, the special assessment board of the city of Duluth has reviewed this list and approved it.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves the stormwater utility funding policy filed as Public Document No. 99-0524-16.

Resolution 99-0389 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

- - -

Councilor Swapinski moved to remove Resolution 99-0319, authorizing an agreement with Camp, Dresser & McKee to conduct a needs assessment for a stormwater management plan for a consideration of not to exceed \$35,000, from the table, which motion was seconded and unanimously carried.

Resolution 99-0319 was adopted as follows:

BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement with Camp, Dresser & McKee, Inc., filed as Public Document No. 99-0524-17, for professional services to conduct a needs assessment for a stormwater management plan for the city of Duluth. The compensation under this agreement shall not exceed \$35,000, and shall be paid from Fund 535-500-0585-5303.

Resolution 99-0319 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

BY COUNCILOR EDWARDS:

WHEREAS, Pawn America Minnesota LLC has applied to the Minnesota department of commerce for a license to transact the business of a currency exchange at its offices at 339 East Central Entrance; 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 339 East Central Entrance to Pawn America Minnesota LLC.

Resolution 99-0406 was unanimously adopted.

Approved May 24, 1999

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

WHEREAS, the St. Luke's Foundation has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

WHEREAS, the Duluth City Council has received a 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 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 St. Luke's Foundation and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

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

Resolution 99-0412 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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

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

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

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

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

	<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
1.	Lake Superior Steelhead Association	Club Saratoga Mr. D's Spirit Valley Bar	April 29, 1999

Resolution 99-0413 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals:

Greek Orthodox Church (Twelve Holy Apostles), 632 East Second Street, for June 26 & 27, 1999, Nick Petrangelo, manager.

Mr. D's Men's and Women's Softball Team, Wheeler Field, for June 12 & 13, 1999, with Alan Terwey, manager.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Western Softball Tournament (Early Bird Tournament), Wheeler Field, for June 5 & 6, 1999, with Darrell Eckenberg, manager.

Copasetic Softball Tournament, Wheeler Field, for July 24 & 25, 1999, with Paul King, manager.

Resolution 99-0417 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the off sale intoxicating liquor license, for the period ending August 31, 1999, subject to departmental approvals, and further subject to the approval of the liquor control commissioner:

Loiselle Liquor, Inc. (Loiselle Liquor Store), 413 East Fourth Street, with John Loiselle, president and 50 percent stockholder, and Christopher Loiselle, 50 percent stockholder, transferred from Loiselle's, Inc. (Loiselle Liquor Store), same address.

Resolution 99-0418 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Lemon's Reef, Inc. (Reef Bar), 2002 London Road, for June 19, 1999, with the music and serving ceasing at 11:00 p.m.

PK & JS, Inc. (Twins Bar), 501 East Fourth Street, for July 30, 1999 (rain date July 31, 1999), with the music ceasing at 11:00 p.m. and the serving ceasing at 11:30 p.m.

Rustic Bar Inc. (Rustic Bar), 401 North Central Avenue, for August 6, 1999 (rain date August 7, 1999), with the music ceasing and the serving ceasing at midnight.

D & D Enterprises of Cloquet, Inc. (Mr. D's Bar & Grill), 5622 Grand Avenue, for August 6, 1999 (rain date August 7, 1999), with the music and the serving ceasing at midnight.

Dwayne & Kimberly, Inc. (Kom On Inn), 332 North 57th Avenue West, for August 6, 1999 (rain date August 7, 1999), with the music and the serving ceasing at midnight.

D & D Enterprises of Cloquet, Inc. (Mr. D's Bar & Grill), 5622 Grand Avenue, for June 26, 1999, with the music and the serving ceasing at midnight.

Grandma's Inc., (Grandma's Saloon & Grill), 522 Lake Avenue South, for June 19, 1999, with the music and dancing ceasing at 12:30 a.m.

Grandma's Angie's Inc., (Little Angie's), 11 East Buchanan Street, for June 19, 1999, with the music and dancing ceasing at 12:30 a.m.

Resolution 99-0419 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves of the liquor control commissioner issuing the following bottle club license renewals for the 1999-2000 license period, subject to departmental approvals and the payment of sales and property taxes:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Order of Owls, Nest #1200, 118 East First Street.
Resolution 99-0420 was unanimously adopted.
Approved May 24, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Building N, Inc., relating to the use of the boat slip in Minnesota Slip adjacent to the Minnesota Slip Bridge, which agreement is on file in the office of the city clerk as Public Document No. 99-0524-18. Monies received by the city under this agreement shall be deposited in the general fund, department of public works and utilities, property management division.

Resolution 99-0448 was unanimously adopted.
Approved May 24, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on portions on Ramsey Street between Bristol Street and Central Avenue on June 26, 1999, in conjunction with Minnesota State Harley Owner's Group rally, 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 99-0451 was unanimously adopted.
Approved May 24, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on portions on Ramsey Street and 57th Avenue West between Grand Avenue and Central Avenue, on August 6, 1999, 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 99-0452 was unanimously adopted.
Approved May 24, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

CITYWIDE REVIEW TEAM for Neighborhood Matching Grants

Peggy Hiestand (West Duluth) for a term expiring December 31, 2000, replacing Joseph Grant.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0402 was unanimously adopted.
Approved May 24, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

John Evans (at large) for a term expiring March 1, 2001, replacing Barbara Tusher who resigned.

Shirely Haagensen (at large) for a term expiring March 1, 2002, replacing Judy LeMire.

Resolution 99-0403 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

LIBRARY BOARD

Dean Casperson and Harriet Halli for terms expiring June 1, 2004.

Resolution 99-0404 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

DULUTH HOUSING COMMISSION

Wilfred Anderson (at large) for a term expiring November 8, 2001.

Mary Dragich (at large) for a term expiring November 8, 2002.

DULUTH HOUSING TRUST FUND BOARD

Wilfred Anderson (at large) for a term expiring September 30, 2001.

Mary Dragich (at large) for a term expiring September 30, 2002.

Resolution 99-0408 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

WOMEN'S COMMISSION

Roberta Kucera for the term expiring September 17, 2001, replacing Cherie Franzen who resigned.

Resolution 99-0411 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of manager, library building and grounds, including a title change to facility operations supervisor, which were approved by the civil service board on May 4, 1999, and which are filed with the city clerk as Public Document No. 99-0524-19, are approved, that said classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees, that the pay range will remain the same.

Resolution 99-0427 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Chester P. Johnson (Morgan Park) for a term expiring March 1, 2000, replacing David Haglin who resigned.

Resolution 99-0447 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth established certain 1994, 1996 and 1997 CDBG accounts; and

WHEREAS, the city-wide citizens advisory committee (CCAC) for the CDBG program passed a resolution recommending funding changes as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund transfers in the Federal Program Fund 262 - 1994, 1996 and 1997 HUD-funded CDBG accounts as set forth below:

1994

<u>Project #</u>		<u>Original Amt</u>	<u>New Amt</u>	<u>Change</u>
6259	18½ Avenue West stairs	95,000	84,091	(10,909)
6261	Central Hillside off-street parking	27,000	24,000	(3,000)
6284	Program administration	466,685	480,594	13,909

1996

<u>Project #</u>		<u>Original Amt</u>	<u>New Amt</u>	<u>Change</u>
6914	West Duluth mid-block lights	3,000	1,250	(1,750)
6935	Contingency	19,000	8,659	(10,341)
6933	Program administration	321,000	333,091	12,091

1997

<u>Project #</u>		<u>Original Amt</u>	<u>New Amt</u>	<u>Change</u>
6002	CAP weatherization	55,600	47,600	(8,000)
6033	Truancy action program (TAP)	1,000	0	(1,000)
6034	Program administration	121,579	130,579	9,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0445 was unanimously adopted.
Approved May 24, 1999
GARY L. DOTY, Mayor

- - -

BY PRESIDENT 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 1999 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. 99-0524-20.

Resolution 99-0390 was unanimously adopted.
Approved May 24, 1999
GARY L. DOTY, Mayor

- - -

BY PRESIDENT 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. 99-0524-21 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 99-0396 was unanimously adopted.
Approved May 24, 1999
GARY L. DOTY, Mayor

- - -

BY PRESIDENT 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 1999 in the city's self insurance fund for purposes of workers' compensation and employee honesty bond coverage, which agreement shall be substantially in the form of Public Document No. 99-0524-22, on file in the office of the city clerk.

Resolution 99-0430 was unanimously adopted.
Approved May 24, 1999
GARY L. DOTY, Mayor

- - -

BY PRESIDENT 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 1999 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. 99-0524-23, on file in the office of the city clerk.

Resolution 99-0432 was unanimously adopted.
Approved May 24, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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. 99-0524-24, with the Minnesota department of economic security to provide services under the job training partnership act as defined in the program year 1999-2000 local plan update from July 1, 1999, through June 30, 2000, up to the amount of funding provided by said department for said program. Program funds will be accepted upon receipt of notices of funds available. Funds received shall be deposited in Fund 268, Budget Items 6226, 6227, 6228, 6229, 6231 and 6232.

Resolution 99-0407 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Davies Water Equipment Company be and hereby is awarded a contract for furnishing and delivering 32 waterous hydrants and miscellaneous parts for the water and gas department in accordance with specifications on its low specification bid of \$37,153.46, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 99-0438 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that it is hereby deemed necessary for public convenience and safety, and it is hereby ordered that sidewalks be constructed or repaired at various city sites (City Job No. 9084SW99).

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 \$185,000 payable from the Special Assessment Fund 810, Agency 038, Organization 5320, Object 5530; that approximately \$25,000 of the cost of said improvements be defrayed by general obligation of the city, payable from the permanent improvement fund; that approximately \$10,000 be payable from the Sanitary Sewer Utility Fund 530; that approximately \$10,000 be payable from the Water Utility Fund 510; that approximately \$10,000 be payable from the Gas Utility Fund 520; that approximately \$25,000 be payable from West Duluth Community Development Account 262; that approximately \$25,000 be payable from Endion Community Development Account 262; and that approximately \$80,000 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 99-0398 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to accept a street easement hereinafter described from Daniel R. Williams, said easement necessary for the reconstruction of West Sixth Street near 20th Avenue West and described as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

That portion of Lot 324, Block 143, Duluth Proper Second Division lying north of the following described line:

Beginning at a point on the common lot line between Lots 324 and 326, said point being six feet southeasterly of the west corner of said Lot 324, thence easterly to a point on a common lot line between Lots 322 and 324, said point being 17 feet southeasterly of the north corner of Lot 324, and there terminating.

Resolution 99-0416 was unanimously adopted.
Approved May 24, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to accept a street easement hereinafter described from Francis E. Hadon, Jr. and Sandra I. Haydon, said easement necessary for the reconstruction of West Sixth Street near 20th Avenue West and described as follows:

That portion of Lot 322, Block 143, Duluth Proper Second Division lying north of the following described line:

Beginning at a point on the common lot line between Lots 322 and 324, said point being 17 feet southeasterly of the west corner of said Lot 322, thence easterly to a point on the east line of Lot 322, said point being 28 feet southeasterly of the north corner of Lot 322, and there terminating.

Resolution 99-0421 was unanimously adopted.
Approved May 24, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the county of St. Louis has submitted to the commissioner of transportation the plans and specifications for Project No. SAP 69-648-13 showing proposed alignment, profile grades, cross-sections and utility improvements for the reconstruction of LaVaque Road (County State-Aid Highway 48) from Fifth Street in Proctor to Morris Thomas Road (County State-Aid Highway 56) in Hermantown; and

WHEREAS, plans have been prepared and presented to the city of Duluth; and

WHEREAS, the approved state aid standards as applicable to this project limit and restrict all parking to that which is parallel with the curb;

NOW, THEREFORE, BE IT RESOLVED, that said plans be in all things approved; and

BE IT FURTHER RESOLVED, that said city of Duluth shall require that parking of all vehicles within the corporate limits on LaVaque Road (County State-Aid Highway 48) be parallel with the curb in accordance with the state aid standards.

Resolution 99-0422 was unanimously adopted.
Approved May 24, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

BE IT RESOLVED, that the proper city officials are authorized to pay to Curtis A. Oberg the amount of \$5,628.57 in full settlement of all claims arising out of damage to his pick-up truck, which was struck by a city truck on November 13, 1998, near 517 East Fourth Street; payable from Self Insurance Fund 605.

Resolution 99-0426 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved May 24, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are authorized and directed to execute an agreement, filed as Public Document No. 99-0524-25, leasing to Wireless North, LLC, a space on and inside various city facilities for installation of communications antennas and equipment for a consideration of \$100 per month per site, said money to be deposited in Fund No. 100-500-1950-4612.

Resolution 99-0429 was unanimously adopted.
Approved May 24, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 98-0597, to L.H.B. Engineers and Architects for furnishing engineering services required for survey, geotechnical and design of 1999 street improvement project for UMD/Lower Chester Park 1 area, be amended to increase the amount by \$111,144 for a new total of \$210,119, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9906, Object 5530.

Resolution 99-0434 was unanimously adopted.
Approved May 24, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 98-0964, to Ayres Associates, Inc., for furnishing professional engineering services for design of a sanitary sewer network to and in Fond-du-Lac, be amended to increase the amount by \$8,000 for a new estimated total of \$122,500, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0500, Object 5303.

Resolution 99-0435 was unanimously adopted.
Approved May 24, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 98-0593 to Salo Engineering, Inc., for furnishing engineering services required for survey, geotechnical and design of 1999 street improvement project for Lincoln Park central area, be amended to increase the amount by \$94,600 for a new total of \$178,600, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9904, Object 5530.

Resolution 99-0436 was unanimously adopted.
Approved May 24, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that ASTECH Corporation be and hereby is awarded a contract for furnishing and delivering crack repair in asphalt streets at various locations within the city of Duluth and crack repair on hills at various locations in the city for the street maintenance division in accordance with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

specifications on its low specification bid of \$91,267.50, terms net 30, FOB job site, payable out of Fund 440, Dept./Agency 038, Organization 9909, Object 5530.

Resolution 99-0439 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of Upper Lester Park area 1999 street improvement project for the engineering division in accordance with specifications on its low specification bid of \$507,541.78, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9907, Object 5530.

Resolution 99-0440 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Glacier Paving, Inc., be and hereby is awarded a contract for construction of milling and bituminous surface restoration on Third Street and 21st Avenue East for 1999 for the city engineering division in accordance with specifications on its low specification bid of \$537,822.97, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2135, Object 5530.

Resolution 99-0441 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for construction of UMD and lower Chester Park I 1999 street improvement project for the engineering division in accordance with specifications on its low specification bid of \$827,125.05, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9906, Object 5530.

Resolution 99-0442 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officials are hereby authorized to enter into a lease agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 99-0524-26, with Duane and Denise Menke at a rental rate of \$400 per month, said money to be deposited in Fund No. 100-500-1950-4612 (rental of buildings).

Resolution 99-0443 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zones are hereby established: both sides of Burning Tree Road from Mountain Shadow Drive to Mall Drive; both sides of Mountain Shadow Drive from Mall Drive to Burning Tree Road.

Resolution 99-0397 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the police chief is hereby authorized to execute an agreement with the St. Louis County sheriff and Arrowhead Regional Corrections providing for reimbursement of the sheriff for certain identification services, which agreement is on file in the office of the city clerk as Public Document No. 99-0524-27, at a cost to the city of \$6,000 in 1999 and \$12,000 in year 2000, which shall be payable from the General Fund 100-200-1610-5319.

Resolution 99-0415 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

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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 \$120,000 to operate a regional hazardous materials emergency response/chemical assessment team during fiscal year 2000, which agreement is on file in the office of the city clerk as Public Document No. 99-0524-28.

Resolution 99-0424 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 99-0444, by Councilor Hogg, authorizing payment of \$5,200 to Grandma's Marathon-Duluth, Inc., in lieu of providing bleachers for the 1999 marathon, was introduced for discussion.

President Keenan stated that he will abstain from voting on the resolution.

Resolution 99-0444 was adopted as follows:

BY COUNCILOR HOGG:

WHEREAS, by Resolution 99-0074 the city council authorized execution of a major sponsorship agreement with Grandma's Marathon-Duluth, Inc. (hereafter Grandma's), for the 1999 Grandma's Marathon; and

WHEREAS, under such agreement the city agreed to provide certain in kind services for the marathon, including providing, installing and removing bleachers at the finish line area of such event; and

WHEREAS, the city believes it will be less costly for the city to provide Grandma's with sufficient funds to contract with another party for these bleachers;

NOW, THEREFORE, BE IT RESOLVED, that the city is hereby authorized to pay \$5,200 to Grandma's in lieu of providing bleachers for the 1999 Grandma's Marathon, which payment shall be made from Fund 258-030-1431-5490.

Resolution 99-0444 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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

Nays: None -- 0

Abstention: President Keenan -- 1

Approved May 24, 1999

GARY L. DOTY, Mayor

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Resolution 99-0461, by Councilor Hogg, of intent to be the recipient and guarantor of interim financing for design of a wastewater collection system to serve an area within the city of Duluth, the town of Lakewood and the town of Duluth, was introduced for discussion.

Councilor Hogg reviewed that there is \$450,000 of State money that is reserved for putting together a special sewer district to serve the area of Duluth and two townships that have severe problems with sewage disposal. He continued saying that the request is for the city to borrow half of the money from the State, and then once the sewer district is formed, then the district will get the money to pay back the city.

Nelson Thomas explained to the council that they are trying to get St. Louis County involved in this agreement, as it might be easier to have them as the loan guarantee rather than the two townships.

Councilor Hogg moved to amend subsection 3.01 a. of the resolution by:

(a) Inserting the phrase "or St. Louis County" after the phrase "town of Duluth";

(b) Adding the following sentence to the end of the subsection:

"Unless such repayment agreements provide for immediate payment by the townships or St. Louis County of their shares of the loan, the agreements shall provide for a time limit on repayment to the city, and shall provide for payment of interest to the city sufficient to compensate the city for lost investment income on the amount owed to the city by the townships or St. Louis County," which motion was seconded and unanimously carried.

Resolution 99-0461, as amended, 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. Findings. The council hereby finds, determines and declares that there are continuing and persistent issues of water quality in the Lake Superior watershed which need to be addressed through the provision of adequate public systems for the collection and treatment of wastewater.

Section 2. Recitals.

2.01. Pursuant to the authority contained in Minnesota Statutes, Section 471.59 the city of Duluth, the town of Lakewood, and the town of Duluth, all in St. Louis County, Minnesota (collectively, the participants), have established a joint powers board referred to as the North Shore wastewater board (the board).

2.02. The board was established for the purpose of planning and developing a design for a joint wastewater and collection treatment system for the mutual benefit of the participants (the project) and to provide a forum for discussion, study, development and implementation of recommendations of mutual interest regarding wastewater collection within the participants.

2.03. In order to provide a legal entity to own, operate and finance the project, it is the intent of the participants to establish a sanitary district pursuant to Minnesota Statutes, Sections 115.18 through 115.37 (the sanitary district).

2.04. The board has requested the city to be the recipient and guarantor of interim financial assistance in the amount of \$225,000 from the Minnesota public facilities authority to defray the

costs of the initial design of the project and creation of the sanitary district. The interim financial assistance is expected to be repaid from permanent financing to be received by the sanitary district for the project from the Minnesota public facilities authority.

Section 3. Approval.

3.01. The council hereby states its intent to authorize the city to be the recipient and guarantor of interim financial assistance from the Minnesota public facilities authority for the project in the amount of \$225,000 (the loan), at such time as the following conditions are complied with:

a. Receipt by the city of binding undertakings by the town of Lakewood and the town of Duluth or St. Louis County on their behalf, pursuant to which each town will agree to repay its proportionate share of the loan in the event permanent financing for the project is not received by the sanitary district. Unless such repayment agreements provide for immediate payment by the townships of or St. Louis County of their shares of the loan, the agreements shall provide for a time limit on repayment to the city, and shall provide for payment of interest to the city sufficient to compensate the city for lost investment income on the amount owed to the city by township or St. Louis County.

b. Development of a plan by the participants for addressing the urban growth issues in the area to be served by the project, including zoning and planning issues.

Section 4. The city is requested to work with representatives of the board and the participants to meet the conditions set forth in Section 3.01 of this resolution and to develop a recommendation to the council regarding the terms and conditions of the loan.

Resolution 99-0461, as amended, was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

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Resolution 99-0409, confirming appointment of Roger Wedin to planning commission replacing Robert Baeumler; and Resolution 99-0414, confirming appointments of Terese Tomanek replacing Mary Meierhoff and William Jackson replacing Aliea Booker to human rights commission, by Councilor Rapaich, were introduced for discussion.

Councilor Rapaich moved to table the resolutions for interviews, which motion was seconded and unanimously carried.

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Resolution 99-0300, by Councilor Prettner Solon, authorizing proper city officials to enter into an agreement with Soft Center Duluth to support the operation of Soft Center Duluth at a cost of \$125,000, was introduced for discussion.

Councilor Gilbert reviewed that last year the city and the Duluth economic development authority (DEDA) gave the Soft Center \$100,000 for start up costs and this year they are asking the city and DEDA to increase their allocation to \$125,000. He continued by saying that while this project is good, there are tradeoffs when the city pours money into economic development projects while funding for many city services and programs are being cut. Councilor Gilbert stated that while the city should support economic development, the city needs to find the money to keep and manage our own city services.

Administrative Assistant Hartl stated that the money being used for economic development is not the same as the general fund. He continued by saying that the council has given the administration direction to restore the undesignated unreserved fund balance in the general fund, and that there are budget recovery plans underway in the city, but the intent was not to reduce services in the city.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0300 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the Duluth City Council hereby authorizes the proper city officials to enter into an agreement with Soft Center Duluth to support the operation of Soft Center Duluth in the Duluth Technology Village project at a cost of \$125,000, said cost to be paid from Fund 425, Technology Village project fund.

Resolution 99-0300 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, Demolition Landfill Services, Inc. (Darrin Saari), submitted an application for a special use permit, which application was submitted pursuant to the Duluth City Code, Section 50-35 and which application was for a select waste disposal demolition debris landfill in an M-2, manufacturing district on property located in St. Louis County, Minnesota, described as: the north 1/2 of the southeast 1/4 (N1/2 of SE1/4) of Section Four (4) T 48N, R15 W, except that part of said north 1/2 of the southeast 1/4 (N1/2 of SE1/4) described as follows: commencing at the northeast corner of said north 1/2 of the southeast 1/4 (N1/2 of SE1/4); thence traveling west along the north line a distance of 370 feet to a point which is the point of beginning; thence continuing west along said north line of north 1/2 of the southeast 1/4 (N1/2 of SE1/4) a distance of 1,030 feet to a point; thence traveling south along a line parallel with the east line of said north 1/2 of the southeast 1/4 (N1/2 of SE1/4) a distance of 305 feet to a point; thence traveling east along a line parallel with the north line of said north 1/2 of the southeast 1/4 (N1/2 of SE1/4) a distance of 420 feet to a point; thence traveling south along a line parallel with east line of said north 1/2 of the southeast 1/4 (N1/2 of SE1/4) a distance of 175 feet to a point; thence traveling east along a line parallel with the north line of said north 1/2 of the southeast 1/2 (N1/2 of SE1/4) a distance of 610 feet to a point; thence traveling north along a line parallel with the east line of said north 1/2 of the southeast 1/4 (N1/2 of SE1/4) a distance of 480 feet to the point of beginning. AND ALSO EXCEPT that part of said north 1/2 of the southeast 1/4 (N1/2 of SE1/4) south of the following described line: commencing at the southeast corner of the north 1/2 of the southeast 1/4 (N1/2 of SE1/4); thence north 87 degrees 34 minutes 56 seconds west, assumed bearing, along the south line of said north 1/2 of the southeast 1/4 159.74 feet; thence north 34 degrees 18 minutes 48 seconds west 86.22 feet; thence north 57 degrees 44 minutes 34 seconds west 87.16 feet; thence south 88 degrees 16 minutes 38 seconds west 122.93 feet; thence south 28 degrees 59 minutes 03 seconds west 115.82 feet to said south line of the north 1/2 of the southeast 1/4; thence north 87 degrees 34 minutes 56 seconds west along said south line of the north 1/2 of the southeast 1/4 415.60 feet; thence north 55 degrees 03 minutes 41 seconds west 195.78 feet; thence south 66 degrees 33 minutes 51 seconds west 117.81 feet; thence south 2 degrees 25 minutes 04 seconds west 54.35 feet to said south line of the north 1/2 of the southeast 1/4; thence north 87 degrees 34 minutes 56 seconds west along said south line of the north 1/2 of the southeast 1/4 434.22 feet; thence north 2 degrees 25 minutes 04 seconds east 114.18 feet; thence north 63 degrees 27 minutes 48 seconds east 127.49 feet; thence north 8 degrees 33 minutes 18 seconds east 113.00 feet; thence north 79 degrees 36 minutes 32 seconds west 133.05 feet; thence north 41 degrees 41 minutes 18 seconds west 176.95 feet; thence south 77 degrees 56 minutes 39 seconds west 97.45 feet; thence south 57 degrees 38 minutes 00 seconds west 107.03 feet; thence south 56 degrees 16 minutes 44 seconds west 60.35 feet; thence south 32 degrees 49 minutes 11 seconds west 100.04 feet; thence south 2 degrees 25 minutes 04

seconds west 226.80 feet to said south line of the north 1/2 of the southeast 1/4 and there ending. (The areas described in the state of Minnesota consent decree as filed May 13, 1998, are excluded from this property description. Re: Sixth Judicial District Court File No. CO-91-600831); and

WHEREAS, pursuant to Duluth City Code, Section 50-32.2, the permit was duly referred by the city clerk to the city planning commission for study and report concerning the effect of the proposed use on the comprehensive plan and on the character and development of the neighborhood and for a public hearing held after notice by publication and mailing to all property owners within 350 feet of the subject property at least one week in advance of the public hearing and the city planning commission conducted a public hearing and considered the application for a special use permit at its regular meeting of March 9, 1999, at which time the city planning commission considered the materials presented by the applicant in its application, a report prepared by the planning department staff, and based on the information available to the city planning commission and on the testimony presented at the public hearing, seven members of the city planning commission being present at the meeting, the city planning commission was unable to make a binding decision on a recommendation based on a vote of 4 to 3 in support of a motion to approve the special use permit; and

WHEREAS, the city council considered Resolution 99-0234, a resolution granting a special use permit to Demolition Landfill Services, Inc., for a select waste disposal demolition debris landfill for property located at 1100 Gary Street (Saari), at its meeting on April 12, 1999, at which time the city council considered the materials presented by the applicant in its application, a report prepared by the planning department staff, information submitted by the applicant and information submitted by the residents of the neighborhood and based on the above information available to the city council and on the testimony presented at the city council meeting, seven members of the city council being present at the meeting, the city council voted by a vote of 2-5 not to approve Resolution 99-0234; and

WHEREAS, the city council based its decision to not approve Resolution 99-0234 on the following:

(a) The city council found that the proposed special use was not consistent with the Gary-New Duluth neighborhood plan, adopted by the city planning commission and city council on December 8, 1980, which recommended that this property be improved consistent with suburban density zoning, and a 1990 update of the Gary-New Duluth neighborhood plan, which recommended that certain zoning changes be made to this property, which zoning changes were not adopted; and

(b) The city council found that appropriate safeguards did not exist to protect the comprehensive plan and to conserve and protect property and property values in the neighborhood, as required by DCC 50-32 and, specifically, that the appropriate safeguards and certain circumstances and certain conditions for the granting of a special use permit for a solid waste disposal facility, as required by DCC 50-35(y), could not be found;

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

(d) The city council found that this proposed special use permit is the same as similar special use permit applications which have been considered by the city planning commission and city council, which have failed to endorse the use of the described property for similar landfill uses three times within the previous two year period;

(e) The city council found that there was substantial neighborhood opposition to the proposed special use permit; and

WHEREAS, the recommendation to the city planning commission by the staff of the physical planning division was to deny the request.

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

Resolution 99-0395 was adopted upon the following vote:

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

Nays: Councilors Edwards and Hales -- 2

Approved May 24, 1999

GARY L. DOTY, Mayor

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Resolution 99-0446, by Councilor Prettner Solon, authorizing development agreement with DEDA for the tech village parking ramp project, was introduced for discussion.

Councilor Gilbert voiced his concern that every part of the Soft Center project has cost more than the amount budgeted because the city went into this project ill prepared and now the city is frantically doing everything it can to save the project. He continued by saying that he supports the project, but that the city needs to approach this project in a more business like manner.

Councilor Hogg reviewed that Cynthia Albright, planning and development department acting director, and the architect for the parking ramp will be working together to see what things could be modified or cut back in without taking away from the overall result and bring the parking ramp costs closer to the budgeted amount.

Councilor Prettner Solon stated that the side effect of doing business in the public eye is that the public sector ends up paying a higher price than if it was done in the private sector. She also stated that the delays in the project have increased the costs of the project.

Resolution 99-0446 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. 99-0524-29 with the Duluth economic development Authority for the development, construction and operation of the Technology Village parking ramp project.

Resolution 99-0446 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that Lakehead Constructors, Inc., be and hereby is awarded a contract for the construction of the Technology Village parking ramp in accordance with specifications on its low specification bid of \$7,607,000, payable out of Fund 425, Dept./Agency 020, Organization 4500.

Resolution 99-0453 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

RESOLVED, that, pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority ("DEDA") and the city of Duluth, at a cost to DEDA estimated to be approximately \$6 million, as approved by the DEDA board at its meeting of May 18, 1999, pursuant to DEDA Resolution No. 99D-23, a copy of which is on file in the office of the city clerk as Public Document No. 99-0524-30, is hereby approved.

Resolution 99-0459 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

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Resolution 99-0425, by President Keenan, authorizing a lease agreement with the Lakeside/Lester Park Community Club for the Lester Park Library, was introduced for discussion.

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

Rosie Loeffler Kemp thanked the councilors for supporting this contract with the city to lease the library as a community club. She continued by saying that this agreement is an investment to the Lakeside/Lester Park community, and they look forward to building a partnership with the city by identifying needs and services in the neighborhood.

Resolution 99-0425 was adopted as follows:

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officials are hereby authorized to enter into a lease agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 99-0524-31, with the Lakeside/Lester Park Community Club for use of the Lester Park library, at a cost to the community club of \$1 per year.

Resolution 99-0425 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

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Resolution 99-0431, by President Keenan, accepting a gift of a newly constructed primate conservation center from the Lake Superior zoological society, was introduced for discussion.

Councilor Hogg stated that the council appreciates the work of the zoological society making the primate conservation center available to the city but cautioned that the costs that go along with gifts to the city also need to be considered.

Resolution 99-0431 was adopted as follows:

BY PRESIDENT KEENAN:

WHEREAS, the Arrowhead Zoological Society, Inc., dba Lake Superior Zoological Society has been a long time partner with the city of Duluth in developing and promoting the Lake Superior Zoological Gardens; and

WHEREAS, several years ago the Zoological Society, working in conjunction with the Zoo Operations Board, endeavored to improve the zoo through the development of a Primate Conservation Center; and

WHEREAS, the Primate Conservation Center is now completed; and

WHEREAS, the city of Duluth wishes to express its gratitude for the efforts of the Zoological Society for its fundraising and construction supervision of the Primate Conservation Center;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby accepts the Primate Conservation Center and extends its deepest thanks and gratitude to the Lake Superior Zoological Society for their efforts and financial support in the development of the Primate Conservation Center; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

RESOLVED FURTHER, that the city clerk is directed to send a certified copy of this resolution to the Lake Superior Zoological Society as a message of thanks.

Resolution 99-0431 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0400, ordering the construction of a bituminous overlay on Blackman Avenue from Macfarlane Road to Arrowhead Road (City Job No. 9154RS98) at an estimated cost of \$64,874, with \$53,916 assessable against benefitted properties; and Resolution 99-0401, ordering the construction of a bituminous overlay on Macfarlane Road from Blackman Avenue to Howard Gnesen Road (City Job No. 9153RS98) at an estimated cost of \$140,209, with \$67,536 assessable against benefitted properties, by Councilor Gilbert, were introduced for discussion.

Councilor Swapinski stated that he will abstain from voting on these resolutions.

Resolution 99-0400 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, by the Resolution of Intent numbered 99-0945, the council did request the administration to prepare plans and specifications for the construction of a bituminous overlay on Blackman Avenue from MacFarlane Road to Arrowhead Road (City Job No. 9154RS98); 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 \$64,874, with \$53,916 payable from the Special Assessment Fund 810, Agency 038, Organization 5317, Object 5530, and be defrayed by special assessment against the land and premises specially benefitted, said land and premises are described in the report of the special assessment board; that \$10,958 of the project cost is payable from the Permanent Improvement Fund 411, said report is on file in the office of the city clerk as Public Document No. 99-0524-34(b); and which description is hereby incorporated herein by reference to Public Document No. 99-0524-34(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 99-0400 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Hogg, Prettnner Solon, Rapaich and President Keenan -- 8

Nays: None -- 0

Abstention: Councilor Swapinski -- 1

Approved May 24, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0401 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, by the Resolution of Intent numbered 99-0930, the council did request the administration to prepare plans and specifications for the construction of a bituminous overlay on Blackman Avenue from MacFarlane Road to Arrowhead Road (City Job No. 9153RS98); 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 \$140,209, with \$67,536 payable from the Special Assessment Fund 810, Agency 038, Organization 5317, Object 5530, and be defrayed by special assessment against the land and premises specially benefited; said land and premises are described in the report of the special assessment board; that \$72,673 of the project cost is payable from the Permanent Improvement Fund 411, said report is on file in the office of the city clerk as Public Document No. 99-0524-34(b); and which description is hereby incorporated herein by reference to Public Document No. 99-0524-34(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 99-0401 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Swapinski -- 1

Approved May 24, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0462, by Councilor Gilbert, indicating the city council's intent to approve certain amendments to the special use permit for the Women's Coalition building at 20th Avenue East and Seventh Street, and the city council's intent to approve acquisition of an interest in certain property for park purposes, was introduced for discussion.

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

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officials are hereby authorized to enter into a lease agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 99-0524-32, with the office space in city hall at a rental rate of \$100 per month.

Resolution 99-0428 was unanimously adopted.

Approved May 24, 1999

GARY L. DOTY, Mayor

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Resolution 99-0449, by councilors Swapinski and Gilbert, requesting that the revised plans of Opus Development Corporation for development of the Trinity Road/Central Entrance property be subjected to review by the planning commission and approval by the city council, and that certain issues be considered in such process, was introduced for discussion.

Councilor Swapinski reviewed that this resolution formally requests that the revised plans of the Opus Development Corporation goes through the proper channels of the planning commission and the council for approval.

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

David Ross stated that the Chamber of Commerce has reviewed this issue and respects the process the council is going through. He encouraged the council to send a positive message to Opus and Home Depot by expediting this process of review, as this project will generate new jobs and add sales tax revenue into the city fund.

Barbara Bowling reminded councilors that the Opus property is bordered on over two sides by family housing and is cushioned from Highway 53 and Trinity Road by its elevation and trees. She also reviewed that the 1996 citywide referendum showed the citizens' desire for that property to remain residential.

Rosie Loeffler Kemp, Myrna Matheson, and K.L. Lewis encouraged support of resolution for the following reasons: the new plan is perceived to be vastly different from the original plan that was passed by the council; the new plan does not fit into the community unit plan; there is too much empty commercial space already available in that area; and the need to build new stores in an unspoiled area was questioned.

Councilor Gilbert stated since this project has been controversial, the city needs to set the ground rules up front so that when the final plan is submitted by Opus, the city can quickly expedite the process and move the project along.

Councilor Hardesty agreed with the concept that this resolution sets up as the procedure for the pathway for this project, and stated she would support this resolution.

Councilor Prettner Solon stated that this process is already in place in the Charter and it is exactly what is followed for every project that comes before the council. She urged the councilors to let the process take its course and act when it is appropriate to act. Councilor Prettner Solon voiced concern that this resolution is not friendly to the business or to the neighborhood.

Councilor Hales stated that a high profile special use permit project should not be treated any differently than any other special use permit, and that the process should be allowed to run the way it was set up to run.

Councilor Hogg reviewed that the city has not received a final proposal from Opus, and therefore the review process cannot start or any decision be made until the planning division receives one. He went on to say that there is enough concern about this project that if a substantial change is made to the plan, it will go through the planning division process and through the council, and any attempt to keep that from happening would cause a large uproar from the public and the council.

Councilor Swapinski stated that this resolution is in response from city staff stating that they will decide if the revised plan warrants review from the planning commission and the council and continued by saying that he does not believe that the administration should solely make that decision.

Councilor Edwards stated that this resolution would send a negative message to the developers and felt that the process set up in the Charter should be allowed to happen once the revised plan is submitted to the planning division.

President Keenan stated that by having the revised plan come back to the council is not a negative statement to the administration or to the developer. He continued by saying that it is important if there are major changes to the plan for the council to see them, as there are neighborhoods to protect.

Resolution 99-0449 failed upon the following vote (Public Document No. 99-0524-33):

Yeas: Councilors Gilbert, Hardesty, Swapinski and President Keenan -- 4

Nays: Councilors Edwards, Hales, Hogg, Prettner Solon and Rapaich -- 5

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Resolution 99-0454, by councilors Swapinski and Gilbert, requesting the administration to prepare a transition plan for governance of DEDA to be transferred to the city council, was introduced for discussion.

Councilor Gilbert stated that over a month ago he had requested from the administration information on transferring the function of DEDA over to the council but has gotten no response. He continued saying that there are a number of issues that need to be explored before the council takes over DEDA and the purpose of this resolution is set up some guidelines and how to implement the council's policy plan for DEDA.

Councilor Rapaich stated that the current make up of the DEDA board with councilors and business people are a good and needed mix, and that there is no need to change the make up of the board.

Councilor Edwards reviewed the memo from the administration stating they are working on the transition plan, and this resolution is not needed as it would interfere with a smoothly working process.

Councilor Swapinski reminded councilors that it has taken over a month for the administration to respond to the council and requesting a timely plan is in the best interest of the councilors.

Councilor Hogg stated that it would be good for both the council and administration to bring forth ideas in an transition plan. He moved to amend the title of the resolution to read as follows:

"RESOLUTION REQUESTING THE ADMINISTRATION TO PREPARE A RECOMMENDED TRANSITION PLAN FOR GOVERNANCE OF DEDA," which motion was seconded and failed upon the following vote:

Yeas: Councilors Gilbert, Hardesty, Hogg and Swapinski -- 4

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

Councilor Prettner Solon stated that it would be better for the council to work cooperatively with the administration to provide the best transition plan for DEDA, but that the council should still hold a committee meeting to discuss and set priorities and policies about the way economic development needs to be conducted.

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

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR PRETTNER SOLON

99-015 - AN ORDINANCE AUTHORIZING CONVEYANCE OF LOTS 210, 212 AND 214, AND THE WEST 1/2 OF VACATED 13TH AVENUE WEST, BLOCK 22, DULUTH PROPER SECOND DIVISION, SUBJECT TO UTILITY AND ROADWAY EASEMENTS FOR A CONSIDERATION OF \$5,500, SAID AMOUNT TO BE DEPOSITED IN GENERAL FUND 100, AGENCY 700, ORG. 1418, OBJ. 4640.

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The meeting was adjourned at 10:05 p.m.

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

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, June 3, 1999, 5:00 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Hales, Hardesty, Hogg, Prettner Solon, Rapaich and President Keenan -- 6

Absent: Councilors Edwards, Gilbert and Swapinski -- 3

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0603-01 Evensen Dodge, Inc., submitting: (a) Bid results; (b) Official statement pertaining to G.O. bonds, Series 1999C and G.O. tax increment bonds, Series 1999D. -- Received

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MOTIONS AND RESOLUTIONS

Resolution 99-0471, providing for the issuance, sale and delivery of \$3,900,000 general obligation tax increment bonds, Series 1999D; establishing the terms and form thereof; creating a bond fund therefor; and awarding the sale thereof; and Resolution 99-0472, providing for the issuance, sale and delivery of \$6,855,000 general obligation bonds, Series 1999C, of the city of Duluth, Minnesota; establishing the terms and form thereof; creating a bond fund therefor; and awarding the sale thereof, by Councilor Hogg, were introduced for discussion.

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

Wayne Burggraaff was present on behalf of Evensen Dodge and stated that the city still has A1 and A+ ratings with Moody's Investors Service and Standard & Poor Ratings Group, respectively. He continued by saying that the results of the two bond sales were favorable.

Resolutions 99-0471 and 99-0472 were 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 A. The Duluth Economic Development Authority ("DEDA"), the City of Duluth (the "City") and others have embarked on a public-private partnership in the construction of a project known as the "Technology Village Project." One component of the Technology Village Project is the construction of a parking facility by the City on First Street between Lake Avenue and First Avenue East (the "Technology Village Ramp"). The City also owns and operates parking facilities near the Depot (the "Depot Ramp") and at 121 East Superior Street (the "Superior Street Ramp"). The City intends to repair and improve the Depot Ramp and the Superior Street Ramp at a cost of approximately \$310,000. DEDA established a Development Program and a Plan for Development District No. 17 and has created Tax Increment Financing District No. 19 located in Development District No. 17 ("TIF District No. 19"). Such Development Plan and the Tax Increment Financing Plan for TIF District No. 19 provides for the use of tax increment from TIF District No. 19 for public development costs associated with the construction and improvement of City parking facilities. The City intends to finance a portion of the Technology Village Ramp and the improvements to the Depot Ramp and the Superior Street Ramp with general obligation tax increment bonds in the amount of \$3,900,000.

B. Pursuant to Minnesota Statutes Section 469.178 (the "Act"), the City is authorized to issue its general obligation bonds for the purpose of financing public development costs associated within TIF District No. 19 and Development District No. 17, and the City hereby authorizes the issuance of \$3,900,000 General Obligation Tax Increment Bonds, Series 1999D

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

(the "Bonds"), for the purpose of providing funds to pay part of the public development costs associated with the Technology Village Ramp (the "Technology Ramp Project") pursuant to Section 4.01A hereof, and to pay for improvements to the Depot Ramp (the "Depot Ramp Project") and to the Superior Street Ramp (the "Superior Street Ramp Project"). The Technology Village Ramp Project, the Depot Ramp Project and the Superior Street Ramp Project are hereinafter sometimes referred to as the "Project." Pursuant to the Act and Sections 4.02 and 4.03 hereof, the City and DEDA will pledge certain tax increment and Net Revenues of the Technology Village Ramp and the Superior Street Ramp for payment of the principal and interest on the Bonds.

1.02 The City Council has solicited proposals for the sale of the Bonds in the principal amount of \$3,900,000 and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of Dain Rauscher, Inc., of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$3,861,000, plus accrued interest on the total principal amount from June 1, 1999, 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 June 1, 1999, as the date of original issue, shall be issued in the denomination of \$5,000, or any integral multiple thereof, and shall be lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the amounts and years stated and shall bear interest at the annual rates as set forth below:

Year	Amount	Interest Rate
2001		\$ 48,250
2002		16 0,250
2003		22 0,250
2004		22 8,250
2005		23 8,250
2006		25 0,350
2007		25 8,450
2008		27 0,500
2009		28 0,625
2010		29 0,700
2011		30 8,800
2012		32 0,875
2013		335,000%
2014		345,000%

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Year	Amount	Interest Rate
2015		365,000%

2.02 The Bonds maturing in the years 2001 through 2009 shall not be subject to redemption and prepayment before maturity, but those maturing or subject to mandatory redemption pursuant to Section 2.01B, in the year 2010 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2009, 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 on February 1, 2000. Interest will be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar designated below at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the City Clerk in substantially the form set forth in the form of the Bond, but only if the opinion is not manually executed. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City Council hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 3.01 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City

or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 A. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City has previously agreed to the applicable provisions set forth in the Blanket Issuer Letter of Representations which has been executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City of each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. Additional matters with respect to, among other things, notices, consents and approvals by Bond holders and payments on the Bonds are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

Section 3. Form of the Bonds.

3.01 The Bonds shall be printed or typewritten in substantially the following form:

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

R-_____

\$_____

CITY OF DULUTH
GENERAL OBLIGATION TAX INCREMENT BOND, SERIES 1999D

Interest		Date of	
<u>Rate</u>	<u>Maturity Date</u>	<u>Original Issue</u>	<u>CUSIP</u>
%	February 1, ____	June 1, 1999	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS

The City of Duluth, St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above, on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from June 1, 1999, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on February 1, 2000. Both principal hereof and interest hereon are payable in lawful money of the United States of America by check or draft by Norwest Bank Minnesota, National Association, of Minneapolis, Minnesota, as bond registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor Bond Registrar as may be designated by the City Council. The Bond Registrar shall make all interest payments with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$3,900,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475, Section 469.178, and all other laws and home rule charter provisions of the City thereunto enabling, and pursuant to a resolution adopted by the governing body of the City on June 3, 1999 (the "Resolution"), for the purpose of financing a portion of public development costs associated with construction of a parking ramp facility and improvements to certain existing parking ramp facilities owned by the City located in Development District No. 17 in the City and for payment of part of the interest cost of said bond issue. The principal hereof and interest hereon are payable in part from tax increment revenue from Tax Increment

Financing District No. 19 and in part from net revenues of certain parking facilities of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred.

The Bonds of this series maturing in the years 2001 through 2009 are not subject to redemption before maturity, but those maturing on and after February 1, 2010, are each subject to redemption and prepayment at the option of the City on February 1, 2009, and on any date thereafter, in whole or in part, and if in part at the option of the City and in such manner as the City shall determine and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to each registered owner of a Bond to be redeemed, but no defect in or failure to give such mailed notice of redemption shall affect the validity of the proceedings for redemption of any Bond not affected by such failure or defect. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond a bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. This Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate and deliver, in exchange for this Bond, one or more new fully registered Bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the principal amount of this Bond, of the same maturity, and bearing interest at the same rate. No service charge shall be made for any transfer or exchange hereinbefore referred to but the City may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith and the cost of printing the new Bonds.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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

IN WITNESS WHEREOF, the City of Duluth, St. Louis County, Minnesota, by its governing body, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

ATTEST:

City Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

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

Date
6/___/99

Registered Owner
Cede & Co.
c/o The Depository
Trust Company
55 Water Street
New York, NY 10041
Federal Taxpayer

Signature of
Bond Registrar

I.D. No.: 13-2555119

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

ASSIGNMENT

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

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

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

Dated: _____.

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

Signature Guaranteed:

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

Section 4. Revenues, Accounts and Covenants.

4.01 A. The City has created a separate bond proceeds construction account in Fund 425, the Technology Village Ramp Construction Fund, to which there shall be credited \$3,590,000 of the proceeds of the Bonds, less amounts used to pay a part of the interest cost of the issue as

allowed by Minnesota Statutes, Section 475.56 allocable to the Technology Village Ramp Project. The funds from this account shall be used solely to pay public development costs of a portion of the Technology Village Ramp Project, as set out in the Tax Increment Plan for Tax Increment Financing District No. 19, and an allocable portion of the costs of issuance of the Bonds; and the money in said account shall be used for no other purpose except as otherwise provided by law. The proceeds of the Bonds deposited in such account may be used only for the following portions of the Technology Village Ramp:

The entire parking ramp structure for Levels 2 through 5, inclusive, and that portion of the structure bounded by the east-west grid lines 11 and 15 and the north-south grid lines A and E, extending from Level L to Level 1, inclusive; such lines being depicted on the plans and specifications for the Duluth Technology Village Parking Structure prepared by LHB Engineers and Architects ("LHB"), dated April 19, 1999.

Prior to disbursement of funds for payment of costs for the Technology Village Ramp, the Treasurer shall obtain a certificate of LHB that the proceeds of the Bonds from such fund will be used to pay only project costs authorized by this Section 4.01A.

The City hereby represents and agrees that the proceeds of the Bonds will not be spent on any portion of the Technology Village Ramp that will be used, directly or indirectly, by U.S. Bank National Association for its private business use.

B. The City has created a separate construction account in Fund 450, Capital Improvement Fund, to which there shall be credited \$310,000 of the proceeds of the Bonds, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, allocable to the Depot Ramp Project and the Superior Street Ramp Project, together with any additional funds which may be available and are appropriated for such portions of the Project. The funds from this account shall be used solely to pay public development costs of the Depot Ramp Project and the Superior Street Ramp Project and to pay a portion of the costs of issuance of the Bonds; and the money in said account shall be used for no other purpose except as otherwise provided by law.

4.02 Until the Bonds are fully paid or duly called for redemption or otherwise discharged, the City will also maintain a separate debt service account (the "Debt Service Fund") in the City's debt service fund created by Section 54(a) of the City Charter, to be used solely for the payment of the interest and the principal, respectively, as such principal and interest become due and payable on the Bonds.

A. There is hereby pledged to the Debt Service Fund certain tax increments from Tax Increment Financing District No. 19 received by the City pursuant to the Tax Increment Pledge Agreement dated as of June 1, 1999, between the City and DEDA (the "Pledge Agreement"), which pledge is hereby accepted by the City, and the City officers are hereby authorized to execute the Pledge Agreement. It is the intention of the City that \$1,000,000 of the principal of the Bonds and interest thereon be paid with tax increment revenues derived from the Pledge Agreement, but in no event will less than 20% of the costs of the Project financed with the Bonds be paid from tax increment.

B. The Treasurer shall transfer: (i) first, from the Technology Village Ramp Operating Account to the Debt Service Fund amounts of the Net Revenues from the Technology Village Ramp sufficient for the payment of \$2,590,000 of the principal of the Bonds and interest thereon; and (ii) second, from the Superior Street Ramp Operating Account to the Debt Service Fund amounts of the Net Revenues from the Superior Street Ramp sufficient for the payment of

\$310,000 of the principal of the Bonds and interest thereon, plus an amount equal to the shortage in the required payment, if any, under clause (i) above, and all charges due to the Bond Registrar. Such transfers shall be made at the times determined by the Treasurer, in accordance with policies established by resolutions of the City Council.

C. The Treasurer shall credit to the Debt Service Fund all proceeds of the Bonds in excess of \$3,900,000, amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, plus the amount of accrued interest paid by the Purchaser, all tax increment payable pursuant to the Pledge Agreement, the Net Revenues pledged from the Technology Village Ramp and from the Superior Street Ramp and the ad valorem taxes levied, if any, pursuant to Section 4.04 hereof.

4.03 The City Council covenants and agrees with the holders of the Bonds and with its taxpayers that it will impose and collect just and equitable charges for all use of the Technology Village Ramp and the Superior Street Ramp at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce Net Revenues at least adequate at all times to pay the principal and interest due on \$2,900,000 of the Bonds and on all other bonds heretofore or hereafter issued and made payable from said Net Revenues, and will operate such parking ramp facilities and segregate and account for the revenues thereof as provided in this Section.

A. The City will place all such charges and revenues from the Technology Village Ramp, when collected, and all money received from the sale of any facilities or equipment of the Technology Village Ramp in a separate Technology Village Ramp Operating Account within the General Fund maintained by the City. Except as provided in this Section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the Technology Village Ramp, and to maintain such reasonable reserves for such expenses as the Director of Finance shall determine to be necessary from time to time in accordance with policies established by the City Council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the Net Revenues of the Technology Village Ramp which are herein pledged and appropriated first to pay the principal of and interest on \$2,590,000 of the Bonds when due.

Surplus revenues from time to time for the Technology Village Ramp, in excess of payments due from and reserves required to be maintained in the Technology Village Ramp Operating Account, may be used for necessary capital expenditures for improvement to such Ramp, for the prepayment and redemption of the Bonds, may be used in accordance with the agreement between the City and DEDA regarding the development of the Technology Village Ramp, and thereafter for any other proper municipal purpose.

B. The City will place all such charges and revenues from the Superior Street Ramp, when collected, and all money received from the sale of any facilities or equipment of the Superior Street Ramp in a separate Superior Street Ramp Operating Account within the General Fund maintained by the City. Except as provided in this Section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the Superior Street Ramp, and to maintain such reasonable reserves for such expenses as the Director of Finance shall determine to be necessary from time to time in accordance with policies established by the City Council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the Net Revenues of the Superior Street Ramp which are herein pledged and

appropriated first to pay the principal of and interest on \$310,000 of the Bonds plus any shortage of the amounts under Section 4.03A above.

Surplus revenues from time to time for the Superior Street Ramp, in excess of payments due from and reserves required to be maintained in the Superior Street Ramp Operating Account, may be used for necessary capital expenditures for improvement to such Ramp, for the prepayment and redemption of the Bonds and thereafter for any other proper municipal purpose.

4.04 If the balance in the Debt Service Fund to pay the Bonds is ever insufficient to pay all principal and interest then due on the Bonds, the Treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from such Debt Service Fund when the balance therein is sufficient. It is estimated that the Net Revenues and the tax increment revenues herein pledged and appropriated to said fund will be received at the times and in amounts not less than five percent in excess of the amounts needed to meet when due the principal and interest payments on the Bonds and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the Net Revenues and the tax increment revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to such bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the Mayor and the City Clerk are hereby authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the City.

Section 6. Tax Covenants; Miscellaneous.

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

6.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Funds (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess

of the applicable yield restrictions imposed by the arbitrate regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

6.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this Section.

Section 7. Certificates of Proceedings.

7.01 The City Clerk is directed to file in the office of the County Auditor of St. Louis County a certified copy of this Resolution, and such other information as the County Auditor may require, and to obtain from the County Auditor and provide to bond counsel a certificate stating that the Bonds herein authorized have been duly entered on the County Auditor's register.

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

7.03 The Mayor and the City Clerk are hereby authorized and directed to certify that they have examined the Official Statement prepared and circulated in connection with the issuance and sale of the Bonds and that to the best of their knowledge and belief the Official Statement is a complete and accurate representation of the facts and representations made therein as for the date of the Official Statement.

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

Resolution 99-0471 was unanimously adopted.

Approved June 3, 1999

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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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 A. Under and pursuant to the provisions of Chapter 475 of Minnesota Statutes and other pertinent provisions of said Statutes and the home rule charter of the City, the City is authorized to issue its general obligation bonds to finance the cost of local public improvements, and the City Council may pledge the full faith and credit and taxing powers of the City for the payment of the principal and interest on such indebtedness.

B. The City Council has, by resolutions adopted on the following dates, ordered street improvements to certain streets, avenues and parkways set forth below (the "1999 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	Resolution Number	Effective Date	Base Cost/CDBG Funds	Project Description
98-0207	98-0978	5/20/98	\$1,550,000	Duluth Heights Kenwood
amendment	98-0977	11/23/98		Lincoln Park-"Goat Hill" Lincoln Park Central Smithville
amendment	99-0149	3/22/99		UMD/Chester Park Lower 1 Upper Lester Park Upper Woodland West
				Niagara Street Street Overlay/Crack Sealing Program

C. The City Council hereby determines to finance \$6,675,000, through the issuance of general obligation improvement bonds, for payment of costs of the 1999 Street Improvement Program.

1.02 A. Under and pursuant to the provisions of Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475 and all other enabling statutes, the City is authorized to issue its general obligation bonds to provide the funds necessary to match state, private and federal grants for projects within the City's boundaries, which bonds are to be payable from annual ad valorem taxes or other revenues of the City.

B. The City Council has, by Ordinance No. 9411 adopted on April 26, 1999, authorized the issuance and sale of \$305,000 General Obligation Transit Bonds of the City, \$180,000 of which are being issued with this series of bonds, to provide the funds necessary to match federal grants in aid of the purchase of new transit buses (the "Transit Project").

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1.03 Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$6,855,000 General Obligation Bonds, Series 1999C, to be dated June 1, 1999, as the date of original issue (the "Bonds") for financing the 1999 Street Improvement Program and the Transit Project.

1.04 The City Council has solicited proposals for the sale of the Bonds in the principal amount of \$6,855,000 and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of Dain rauscher, Inc., of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$6,786,685.55, plus accrued interest on the total principal amount from June 1, 1999, to the date of delivery of the Bonds and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The Mayor and the City Clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's proposal. The City Treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 A. The Bonds to be issued hereunder shall be dated June 1, 1999, 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	Transit Bonds	Improvement Bonds	Total	
2001		\$35,000	\$275,000	\$310,000
2002		35,000	405,000	440,000
2003		35,000	420,000	455,000
2004		35,000	440,000	475,000
2005		40,000	455,000	495,000
2006			385,000	385,000
2007			395,000	395,000
2008			415,000	415,000
2009			435,000	435,000
2010			455,000	455,000
2011			475,000	475,000
2012			495,000	495,000
2013			515,000	515,000
2015			1,100,000	1,100,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

B. The Bonds maturing on February 1 in the year 2015 shall be subject to mandatory redemption prior to maturity pursuant to the requirements of this Section 2.01B at a redemption price equal to the stated principal amount, as hereinafter provided, plus interest accrued thereon to the redemption date, without premium. The Bond Registrar, as designated below, shall select for redemption, by lot or other manner deemed fair, on February 1 in each of the following years, the following stated principal amounts:

For Bonds maturing on February 1, 2015 (the "2015 Term Bonds"):

Year	Principal Amount
2014	\$540,000

The remaining \$570,000 stated principal amount of the 2015 Term Bond shall be paid at maturity on February 1, 2015.

If less than such amount of the Term Bonds is outstanding on such payment date, the City shall pay the remaining balance of the Term Bonds then outstanding. The Bond Registrar shall select and call for redemption, in accordance with Section 2.02 hereof, from the Term Bonds the amounts specified above and the Term Bond selected by the Bond Registrar shall become due and payable on such date.

2.02 The Bonds maturing in the years 2001 through 2009 shall not be subject to redemption and prepayment before maturity, but those maturing or subject to mandatory redemption pursuant to Section 2.01B, in the year 2010 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2009, 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 February 1, 2000. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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 1999C

R-__ \$_____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	February 1, _____	June 1, 1999	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from June 1, 1999, 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, 2000. 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 \$6,855,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to a resolution adopted by the governing body of the City on June 3, 1999 (the "Resolution"). The Bonds are issued for the purposes of financing (i) a portion of the costs of the Duluth Transit Authority for the purchase of new buses in the amount of \$180,000, issued pursuant to Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475, the City Charter and other pertinent provisions of said statutes, and Ordinance No. 9411, which obligations and interest thereon are payable from annual ad valorem taxes; and (ii) a portion of the cost of local public improvements in the amount of \$6,675,000, issued pursuant to Minnesota Statutes, Chapter 475, the City Charter and other pertinent provisions of said statutes for the purpose of financing a portion of the cost of local public improvements, which obligations and interest thereon will be payable in part from special assessments levied or to be levied against property specially benefitted by local improvements and in part from ad valorem taxes, as described in the Resolution.

The Bonds maturing in the year 2015 shall be subject to mandatory redemption and redeemed in installments as provided in the Resolution, at par plus accrued interest to the date of redemption.

The Bonds of this series maturing in the years 2001 through 2009 are not subject to redemption before maturity, but those maturing, or subject to mandatory redemption, in the year 2010 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2009, and on any date thereafter upon 30 days' notice, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed. No defect or failure in such mailed notice shall affect the validity of the proceedings for redemption of any Bond not affected by such failure or defect. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate

office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

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

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

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

Attest:

City Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated

above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

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

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
6/___/99	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

ASSIGNMENT

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

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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 \$180,000 of the Bonds is allocated for use for the Transit Project. The portion of the principal maturities of the Bonds, debt service and tax levy allocable to the Transit 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 Transit Project, less discount allocated thereto, together with any additional funds, including grant funds, which may be available and are appropriated for the Transit 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 Transit Project and to pay the costs of issuance for the allocable portion of the Bonds issued for the Transit Project.

3.02 \$6,675,000 of the Bonds is allocated for use for the 1999 Street Improvement Program. The portion of the principal maturities of the Bonds, debt service, estimated special assessment levy and tax levy allocable to the 1999 Street Improvement Program are set forth on Exhibit C hereto. Upon payment of the purchase price of the Bonds, the City shall credit the proceeds from the sale of the Bonds in the amount of \$6,675,000, less discount allocated thereto, into the 1999 Street Improvement Account (the "1999 Street Account") within the Street Improvement Fund in the Capital Projects Fund. The proper City officers are authorized and directed to pay out of the 1999 Street Account from time to time as required, upon presentation of properly verified vouchers or statements of account, such amount or amounts as may be required to pay the cost of the improvements. The costs of issuance for the allocable portion of

the Bonds issued for the 1999 Street Improvement Project shall be paid from the 1999 Street Account.

3.03 The City Council covenants and agrees with the holders of the Bonds and with its taxpayers that it will assess against benefitted property the cost of the improvements to the City for the 1999 Street Improvement Program in an amount which, together with the proceeds of federal grants to the City for such improvement projects, is not less than 20% of the costs of such projects financed by the proceeds of the Bonds. The City Council further covenants and agrees that, with due diligence, it will complete the special assessment process, including any and all supplemental assessments or reassessments that may be required to lawfully assess the benefitted property.

3.04 A. A separate debt service account is hereby created and designated as the "1999 Transit Bonds Debt Service Account" (the "Transit Bonds Debt Service Account") within the City's Debt Service Fund. The money in the Transit Bonds Debt Service Account shall be used for no purpose other than the payment of principal and interest on the portion of the Bonds allocated to the Transit Project; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Transit Bonds Debt Service Account, 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 Transit Bonds Debt Service Account shall be credited unused discount, if any, plus the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds, which is allocated to the Transit Project.

B. A separate account within the Special Assessment Debt Service Fund maintained by the City is hereby created and is designated the "1999 Improvement Bond Account." The money in such account shall be used for no purpose other than the payment of principal and interest on the portion of the Bonds allocated to the 1999 Improvement Program; 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 1999 Improvement Bond Account shall be paid from the proceeds of the Bonds unused discount, if any, capitalized interest in the amount of \$421,132.64, plus the amount of accrued interest on the Bonds which is allocated to the 1999 Improvement Program, all special assessments levied for the projects listed in Section 1.01 hereof and the ad valorem taxes levied pursuant to Section 3.05 hereof.

3.05 A. The full faith and credit and taxing power of the City are hereby irrevocably pledged for the prompt and full payment of the principal of and interest on the Bonds, as such principal and interest respectively become due. To provide monies for the payment of the principal and interest on the Bonds, there is hereby levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls and collected with and part of the other general property taxes of the City for the years and in the amounts as set forth on Exhibit A attached hereto. Said levies are such that if collected in full they, together with the estimated receipts of special assessments pledged for payment of principal and interest on the Bonds, will produce at least 5% in excess of the amount needed to meet when due the principal and interest on the Bonds.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that in each year while any Bonds issued hereunder remain outstanding, the City Council may reduce or cancel the above levies to the extent of an irrevocable appropriation to said debt service account of monies actually on hand for payment of the portion of such principal and interest payable from ad valorem taxes (and not special

assessments), and may direct the County Auditor to reduce the levy for such calendar year by that amount.

B. All proceeds of the special assessments from the properties described in Section 1.01 hereof and said taxes are hereby appropriated and shall be paid when collected into the 1999 Improvement Bond Account within the Special Assessment Debt Service Fund and the Transit Bonds Debt Service Account. If the balances in the 1999 Improvement Bond Account and Transit Bonds 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 1999 Improvement Bond Account or the Transit Bonds Debt Service Account when the balances therein are sufficient.

3.06 Proceeds of the Bonds on deposit in the 1999 Street Account, 1999 Improvement Bond Account and Transit Bonds Debt Service Account may, in the discretion of the City Treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 4. Tax Covenants; Miscellaneous.

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

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any proceeds of the Bonds and any sums from time to time held in such debt service account (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in such debt service account shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1996, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the

Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the Mayor and the Clerk are hereby authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the City Clerk.

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 99-0472 was unanimously adopted.

Approved June 3, 1999

GARY L. DOTY, Mayor

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

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 7, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Hales, Hardesty, Hogg, Rapaich and President Keenan -- 6

Absent: Councilors Edwards, Prettner Solon and Swapinski -- 3

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0607-16 St. Louis County, et al. (four signatures) submitting petition to construct a water main along Rice Lake Road beginning approximately 490 feet southerly of Allen Street to 1,845 feet northerly of Allen Street, then westerly approximately 1,400 feet to Arlington Avenue. -- Assessor

REPORTS OF OFFICERS

99-0607-01 Assessor submitting letters of sufficiency pertaining to petitions to:

(a) Vacate the whole of a street easement identified as Fairbanks Avenue;

(b) Vacate 30 feet of the west side of Summit Avenue (11th Avenue West), one foot east of the structure at 123 North 11th Avenue West. -- Received

99-0607-02 Community development and housing division submitting HRA housing rehabilitation report for April 1999. -- Received

99-0607-15 Finance department director submitting comprehensive annual financial report for the fiscal year ended December 31, 1998. -- Received

99-0607-03 Parks and recreation department director submitting:

(a) Lake Superior zoological society:

(1) Financial statements for March/April 1999;

(2) Minutes of March 25, 1999, meeting. -- Received

(b) Lease agreement between city of Duluth and Robert and Amy Hargraves for the Park Point beach house building, pursuant to Section 2-35 of the Duluth City Code. -- Mayor for execution

99-0607-17 Public works and utilities department submitting letter of sufficiency regarding petition to construct a water main along Rice Lake Road beginning approximately 490 feet southerly of Allen Street to 1,845 feet northerly of Allen Street, then westerly approximately 1,400 feet to Arlington Avenue. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-0607-04 Board of zoning appeals minutes of April 27, 1999, meeting. -- Received

99-0607-05 Parks and recreation commission minutes of: (a) January 13; (b) February 10; (c) March 10; (d) April 14, 1999, meetings. -- Received

99-0607-06 Spirit Mountain recreation area authority minutes of April 29, 1999, meeting. -- Received

99-0607-07 Technical design advisory committee for DWMX-D minutes of March 16, 1999, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Tom Bernard stated that he had an idea for a senior oriented coffee shop staffed by young people with the main purpose being to help establish better relations with seniors and young

people. He continued by saying that he has received no support from TEAM Duluth and questioned how he might get started with this idea.

Councilor Hogg suggested that North Star Community Development Corporation could help him with this project.

- - -

Peggy Marrin questioned what the status of the Duluth economic development authority (DEDA) is in relationship with the council.

President Keenan reviewed that the council approves all DEDA expenditures over \$25,000, and there is a council committee meeting set for a transition plan to discuss the options of making DEDA governed by the council.

Councilor Gilbert explained that it may be possible that DEDA might do the background work for the council to approve the resolutions because of the time commitment involved.

- - -

Darlene Virta voiced concern on the Women's Coalition structure to be built in her neighborhood and stated that she is unable to ascertain the square footage of the building. She requested that the council have a public review of the project before the building permit is issued as there are so many unanswered questions on this project.

To Councilor Hogg's questioning about a review process for this project, City Attorney Dinan responded that the special use permit is already issued, and if the new plans are staying in the parameters of the plans that were approved, there is no process to stop the project other than district court. He continued by saying that if city staff makes the determination that the plans had been altered significantly, then it would go back to the planning commission and the council for approval. Mr. Dinan also stated that the building permits would be issued according to the requirements of the special use permit.

Jamie Glitsos questioned if a Minnesota environmental protection agency (EPA) worksheet had been done because they accepted community development block grant (CDBG) monies. She also stated that a lot of debris had been dumped in this site by a construction crew and questioned if there is health hazard on the site.

President Keenan requested the administration check into the fill permit process and the CDBG requirements.

Randy Virta questioned if Jim Mohn of the physical planning division is the only person reviewing the plan changes.

President Keenan requested the administration have Keith Hamre, acting physical planning division manager, check to see if the proper review process has been followed and if the plans are within the scope of the special use permit already issued.

Administrative Assistant Hartl stated that he would check with the staff to make sure serious attention has been given to this issue and would give the council the assurance that the plans have been reviewed and the proper action will be followed.

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RESOLUTIONS TABLED

Councilor Rapaich moved to remove Resolution 99-0409, confirming appointment of Roger Wedin to planning commission replacing Robert Baeumler; and Resolution 99-0414, confirming appointments of Terese Tomanek replacing Mary Meierhoff and William Jackson replacing Aliea Booker to human rights commission, from the table, which motion was seconded and unanimously carried.

Resolution 99-0409 was adopted as follows:
BY COUNCILOR RAPAICH:

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

PLANNING COMMISSION

Roger Wedin for a term expiring December 31, 2000, replacing Robert Baeumler who resigned.

Resolution 99-0409 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0414 was adopted as follows:

BY COUNCILOR RAPAICH:

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

HUMAN RIGHTS COMMISSION

Terese M. Tomanek for a term expiring March 1, 2001, replacing Mary Meierhoff who resigned.

William Jackson for a term expiring March 1, 2002, replacing Aliea Booker.

Resolution 99-0414 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are authorized and directed to execute an agreement, filed as Public Document No. 99-0607-08, leasing to Wireless Alliance, LLC, a space on the Hawks Ridge water tower for installation of communications antennas and equipment to be mounted at a lower elevation than existing city communications equipment for a consideration of \$6,000 per year, subject to an initial adjustment, said money to be deposited in Water Fund No. 510.

Resolution 99-0423 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the assessment rolls levied to defray the assessable portions of development of Hartley Estates Phase 3, street sewer, water and gas mains (Contract Nos. 5311, 1198021, 1198022, \$348,828.46 assessable); permanent street for Arrowhead Road from 200 feet west of Kenwood to Dodge Street, Kenwood Avenue from Cleveland to Howard Gnesen and Howard Gnesen from Kenwood Avenue to Victoria Street (Contract No. #5285, \$29,580.70, assessable); permanent alley for Second Street Alley from 14th to 15th Avenues East (Contract No. 5305, \$22,022.19, assessable), are hereby confirmed.

Resolution 99-0468 was unanimously adopted.

Approved June 7, 1999

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the city council hereby approves settlement of a grievance filed by members of AFSCME Council 96, Local 66 relating to standby duty pay for employees in the public works and utilities service division, which grievance settlement is on file in the office of the city clerk as Public Document No. 99-0607-09.

Resolution 99-0483 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

WHEREAS, the city of Duluth desires to dispose of contaminated soil; and

WHEREAS, the city desires to hire a environmental engineer to provide the services required to dispose of contaminated barrels of petroleum and soil; and

WHEREAS, O.S.I. Environmental, Inc., has submitted a proposal for environmental 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 O.S.I. Environmental, Inc., to provide the city with such services.

BE IT FURTHER RESOLVED, that the cost of said environmental services, estimated at \$42,500, will be payable from the Self Insurance Fund 605, Dept./Agency 036, Organization 1650, Object 5319.

Resolution 99-0437 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Billington Contracting, Inc., be and hereby is awarded a contract for furnishing and delivering class 5 gravel, bedding sand and crushed rock for the various departments/divisions in accordance with specifications on its low specification bid of \$75,503.51, terms net 30, FOB job sites, payable out of various funds, dept./agencies, organizations, and objects.

Resolution 99-0476 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Erling R. Hansen Contractor be and hereby is awarded a contract for ADA improvements in city hall for the city architects division in accordance with specifications on its low specification bid of \$132,000, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1999, Object C909.

Resolution 99-0482 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

RESOLVED, that the proposed amendments to the specifications for the civil service classification of water and gas pipeline welder, which were approved by the civil service board on March 2, 1999, and which are filed with the city clerk as Public Document No. 99-0607-10, are approved. This classification remains represented by the basic unit and compensated at range 29, \$2,673 to \$3,171 per month.

Resolution 99-0450 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

DULUTH STATE CONVENTION CENTER ADMINISTRATIVE BOARD

M. George Downs for a term expiring June 30, 2002.

Resolution 99-0455 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

DULUTH TRANSIT AUTHORITY

Bradley Beckman (District 5) and Roger Gunderson (at large) for terms expiring June 30, 2002.

Resolution 99-0456 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

SANITARY SEWER BOARD of the Western Lake Superior Sanitary District

Royal D. Alworth and Jane Gilbert for terms expiring July 1, 2002.

Resolution 99-0457 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

SPIRIT MOUNTAIN RECREATION AREA AUTHORITY

Charles Andresen for a term expiring June 30, 2002.

Resolution 99-0458 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

WHEREAS, the Minnesota legislature included \$20.5 million in the 1999 bonding bill for wastewater infrastructure projects; and

WHEREAS, there is a need to extend sanitary sewer service to the Fond du Lac area of Duluth because of failing septic systems in that area; and

WHEREAS, the city has been supportive of acquiring state funding to assist with extension of sanitary sewer service by the Western Lake Superior Sanitary District (WLSSD) to the Fond du Lac area, and included a request for such funding in its 1999 legislative program; and

WHEREAS, the Fond du Lac sewer extension project has been reviewed by the Minnesota pollution control agency (MPCA) and is eligible for funding from the legislative appropriation in the 1999 bonding bill for wastewater infrastructure projects; and

WHEREAS, the Fond du Lac sewer extension project will require amendment to WLSSD's permit from the MPCA to enable it to accept wastewater from Fond du Lac;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby indicates its strong support for the application by the WLSSD for state funding to assist with the extension of sanitary sewer service to the Fond du Lac area of Duluth.

RESOLVED FURTHER, that the city council supports amendment of WLSSD's permit from the MPCA to allow it to accept wastewater from the Fond du Lac area.

Resolution 99-0469 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to city contract 16457 substantially in the form of the copy on file in the office of the city clerk as Public Document No. 99-0607-11 with Duluth Lighthouse for the Blind with no change in compensation under the terms of the agreement.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute a satisfaction of mortgage substantially in the form of the copy on file in the office of the city clerk as Public Document No. 99-0607-11.

Resolution 99-0465 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Seven Bridges Road and its bridges are part of a designed landscape planned by the renowned landscape architecture firm Morell and Nichols, and are a component of Skyline Parkway, one of Duluth's most historically significant and unique landscape features; and

WHEREAS, Duluth's Skyline Parkway holds the honor of being designated a state scenic byway; and

WHEREAS, primary funding for this bridge rehabilitation work was secured through an ISTE A (transportation enhancement) grant obtained by city officials for which the Minnesota historical society grant is a match; and

WHEREAS, the Minnesota historical society has recognized the historical significance of Seven Bridges Road and its bridges, along with Skyline Parkway as a whole, and has now granted funds for rehabilitation of a portion of this historic resource; and

WHEREAS, the Duluth heritage preservation commission has been active in securing these funds and is a partner in monitoring the project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, that the appropriate city officials are hereby authorized to enter into an agreement with the Minnesota historical society in order to receive a grant totaling \$19,200 for rehabilitation of Historic Bridge No. 6 on Seven Bridges Road, said sum to be deposited into Capital Fund 450-015-1997-C709, said agreement to be substantially in the form of the document on file in the office of the city clerk and recorded as Public Document No. 99-0607-14.

Resolution 99-0467 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, since the Community Reinvestment Act (CRA) passed in 1977, it has produced more than \$1.4 billion in lending in underserved communities by FDIC insured banks; and

WHEREAS, the city of Duluth has seen many benefits to the community due to CRA lending; and

WHEREAS, the CRA should continue to be an important economic development tool to increase home ownership and economic development in low income urban and rural communities; and

WHEREAS, H.R. 10, the Financial Services Modernization Act, should include modernization of the CRA so that it continues to cover lending and traditional banking services whether performed by a bank or one of the new affiliates of the bank holding companies which will be allowed to form with passage of H.R. 10; and

WHEREAS, if CRA is not modernized to cover traditional lending and banking services performed in the past only by banks, the new affiliates of bank holding companies will not be covered by the CRA and could fail to provide services to low income communities; and

WHEREAS, banks that merge with insurance, securities and mortgage banking entities will be permitted to shift their assets to their new affiliates, thus reducing the amount of capital covered by the CRA; and

WHEREAS, to increase access to credit for home ownership, automobile ownership, and small business insurance products for underserved people, H.R. 10 must be amended to require the insurance affiliates of the new bank holding companies to collect and maintain data on the characteristics of their customers, including race, income, and the neighborhoods in which they reside, to identify missed market opportunities in low-income working class communities.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council strongly urges the members of the house commerce committee and the U.S. House of Representatives to amend H.R. 10 to modernize the CRA to require all affiliates of the new bank holding companies that perform lending and banking services to be covered by the CRA, and to require the insurance affiliates of the new bank holding companies to collect and maintain data on the characteristics of their customers.

Resolution 99-0484 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the community development block grant program (CDBG) is celebrating its 25th year; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

WHEREAS, CDBG is the federal government's most successful domestic program; and
WHEREAS, CDBG's success is principally due to its utility and flexibility; and
WHEREAS, CDBG has previously provided cities and counties with annual predictable levels of funding (with the exception of set-asides) to address their unique low and moderate income neighborhood revitalization needs; and

WHEREAS, CDBG has moved people from dependency to self sufficiency and tax-paying status; and

WHEREAS, CDBG requires and fosters community participation in identifying community needs and targeting resources; and

WHEREAS, CDBG promotes public/private partnerships which leverage substantial private resources in affordable housing, and community and economic development; and

WHEREAS, CDBG fosters intergovernmental and multi-jurisdictional cooperation; and

WHEREAS, based on HUD's most recent report to Congress, between FY 1993 and FY 1996, an estimated 14-17 million households benefited from CDBG; and

WHEREAS, during the same period CDBG created 114,799 jobs through the economic development programs it funded; and

WHEREAS, in FY 1993 CDBG entitlement communities spent their CDBG grants in the following manner:

35.8 percent for housing rehabilitation, assisting 200,000 households,

22.7 percent for public works and infrastructure,

14 percent for monitoring and program administration;

12 percent for public services,

7.3 percent for acquisition and clearance of property,

6 percent to prevent slums and blight,

6 percent for economic development; and

WHEREAS, the federal government will have a budget surplus in 2000; and

WHEREAS, the National League of Cities supports lifting the 1997 budget caps (PL 105-53) when a surplus exists;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council urges the U.S. Congress to fund CDBG in the year 2000, at a minimum, at the FY 1999 level of \$4.750 billion as an investment in the future of America's communities.

Resolution 99-0485 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to submit a joint local service unit (L.S.U.) plan with St. Louis County for the provision of employment and training services and coordination for state fiscal years 2000 and 2001 (July 1, 1999, to June 30, 2001). A copy of this update will be on file in the city clerk's office as Public Document No. 99-0607-12.

Resolution 99-0463 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Carlson Brothers, Inc., be and hereby is awarded a contract for replumbing of one inch and 1-1/2 inch gas piping and gas meter resetting at various locations for the water

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

and gas department in accordance with specifications on its low specification bid of \$36,545, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 99-0386 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Radix Corporation, Inc., be and hereby is awarded a contract for furnishing a hand-held electronic meter reading system for the water and gas department in accordance with specifications on its low specification bid of \$31,598.55, terms net 30, FOB destination, \$18,959.13 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5580 and \$12,639.42 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 99-0473 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the Rehabilitation of Bridge No. L8517 over Tischer Creek on Vermilion Road, S.A.P. 118-080-20; and

WHEREAS, the grant has been approved and the amount of the grant has been determined to be \$122,266.50.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby accept said grant and affirms that any rehabilitation costs qualifying for Minnesota state transportation funds in excess of the grant will be appropriated from funds available to the city of Duluth and that any grant monies appropriated for reconstruction costs but not required, based on the final audit, shall be returned to the Minnesota state transportation fund.

Resolution 99-0460 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

BE IT RESOLVED, that the proper city officials are authorized to pay to Beverly M. Halvorson the amount of \$6,318.67 in full settlement of all claims arising out of damage to her vehicle which was struck by a city truck on April 27, 1999, near 24th Avenue West and Superior Street; payable from Self Insurance Fund 605.

Resolution 99-0464 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 98-0595 to Seaway Engineering Company, for furnishing professional engineering services for survey, geotechnical and design of 1999 street improvement project for upper Woodland west area, be amended to increase the amount by \$126,120 for a new

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

estimated total of \$245,780, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9908, Object 5530.

Resolution 99-0474 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 98-0648 to R.L.K.-Kuusisto, Ltd., for furnishing professional engineering services for survey, geotechnical and design of 1999 street improvement project for upper Lester Park area, be amended to increase the amount by \$74,363 for a new estimated total of \$140,205, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9907, Object 5530.

Resolution 99-0475 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Duluth Superior Erection, Inc., be and hereby is awarded a contract for the 1999 city-wide street patch program for the engineering division in accordance with specifications on its low specification bid of \$340,000, terms net 30, FOB job site, payable out of Permanent Improvements Fund 411, Dept./Agency 035, Organization 2136, Object 5530.

Resolution 99-0478 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Northland Constructors of Duluth, Inc., be and hereby is awarded a contract for the lower Lakeside storm sewer Phase II, London Road to 52nd Avenue East for the engineering division in accordance with specifications on its low specification bid of \$226,652.60, terms net 30, FOB job site, payable out of Storm Water Fund 535, Dept./Agency 500, Organization 0505, Object 5533.

Resolution 99-0479 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for construction of Upper Woodland West, 1999 street improvement project, for the engineering division in accordance with specifications on its low specification bid of \$893,993.32, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9908, Object 5530.

Resolution 99-0480 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for sanitary sewer in 22nd Avenue West from Eighth Street Alley to Eighth Street for the engineering division in accordance with specifications on its low specification bid of \$25,831, terms net 30, FOB job site, payable out of CDBG (community development block grant) Fund 262, Dept./Agency 621, Object 6144.

Resolution 99-0481 was unanimously adopted.
Approved June 7, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

WHEREAS, 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 202 North 24th Avenue West
front of 26 North 25th Avenue West
across from 326 North 58th Avenue West
front of 316 West Fourth Street
front of 1115 East First Street
across from 3132 Greysolon Place
front of 923 East Seventh Street
front of 1710 East Superior Street
front of 2400 East Superior Street
front of 1730 East Superior Street
Resolution 99-0466 was unanimously adopted.
Approved June 7, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the city council hereby authorizes the city to accept a grant in the amount of \$3,200 from Miller-Dwan Foundation to be used by the fire department to implement a program called Risk Watch, which is a comprehensive program that teaches children how to prevent injuries. Monies received by the city under this grant shall be deposited in the general fund - fire department.

Resolution 99-0470 was unanimously adopted.
Approved June 7, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized to accept a \$10,000 grant from the Minnesota department of labor and industry and to execute the grant contracts filed as Public Document No. 99-0607-13, for the city of Duluth fire department's confined space project.

RESOLVED FURTHER, that the city of Duluth is hereby authorized to accept a \$10,000 grant from Cargill, Inc., a \$1,500 grant from Cutler Magner, and a \$200 grant from American Steamship Company, all grants to be used on the Duluth fire department's confined space project.

RESOLVED FURTHER, that all grant monies accepted pursuant to this resolution shall be deposited into Fund No. 210, Agency 030, Org. 2120.

Resolution 99-0477 was unanimously adopted.
Approved June 7, 1999

GARY L. DOTY, Mayor

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The following resolution was also considered:

BY COUNCILOR GILBERT:

WHEREAS, it appears that it may be necessary that a water main be constructed along Rice Lake Road beginning approximately 490 feet southerly of Allen Street to 1,845 feet northerly of Allen Street, then westerly approximately 1,400 feet to Arlington Avenue;

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 99-0487 was unanimously adopted.

Approved June 7, 1999

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR HALES

99-016-O - AN ORDINANCE RELATING TO ELECTRONICALLY AMPLIFIED SOUND EMITTED FROM MOTOR VEHICLES, PROHIBITING EXCESSIVE NOISE; ADDING A NEW SECTION 34-23 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Steve Chilton stated that he understands that young people like to play music loud, but he would like moderation and courtesy from the people driving around that are playing their music loud. He continued by saying that it is important for the city to express a sense that Duluth does not like people being rude to each other.

Councilor Gilbert questioned if the current disorderly conduct ordinance would apply to this issue, and also questioned if car alarms that go off would also be considered in violation of this proposed ordinance.

Mr. Dinan replied that the disorderly conduct ordinance applies only to specific situations in homes where loud music is being played and does not cover car radio situations. He stated that he will check into the definition of electronically amplified sounds and that the council may have to amend ordinance to include car alarms.

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The following entitled ordinance was read for the second time:

BY PRESIDENT KEENAN (introduced by Councilor Prettner Solon)

99-015 (9415) - AN ORDINANCE AUTHORIZING CONVEYANCE OF LOTS 210, 212 AND 214, AND THE WEST 1/2 OF VACATED 13TH AVENUE WEST, BLOCK 22, DULUTH PROPER SECOND DIVISION, SUBJECT TO UTILITY AND ROADWAY EASEMENTS FOR A CONSIDERATION OF \$5,500, SAID AMOUNT TO BE DEPOSITED IN GENERAL FUND 100, AGENCY 700, ORG. 1418, OBJ. 4640.

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

- - -

The meeting was adjourned at 8:45 p.m.

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

- - -

ORDINANCE NO. 9415

BY PRESIDENT KEENAN (Introduced by Councilor Prettner Solon):

AN ORDINANCE AUTHORIZING CONVEYANCE OF LOTS 210, 212
AND 214, AND THE WEST 1/2 OF VACATED 13TH AVENUE WEST,
BLOCK 22, DULUTH PROPER SECOND DIVISION, SUBJECT TO
UTILITY AND ROADWAY EASEMENTS FOR A CONSIDERATION
OF \$5,500, SAID AMOUNT TO BE DEPOSITED IN 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 Miller & Holmes, Inc., for \$5,500, said amount to be deposited in General Fund 100, Agency 700, Org. 1418, Obj. 4640.

Lots 210, 212 and 214 and the west 1/2 of vacated 13th Avenue West, Block 22, Duluth Proper Second Division, subject to a utility easement and two roadway easements.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: July 18, 1999)

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

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

Nays: None -- 0

Absent: Councilors Edwards, Prettner Solon and Swapinski -- 3

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 7, 1999
Approved June 7, 1999
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 28, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: Councilor Rapaich -- 1

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The minutes of meetings held on April 12, 22 and 26, 1999, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0628-01 Mark and Jean Krysiak submitting:

(a) Petition to construct a 225 foot eight inch sanitary sewer in Arlington Avenue to serve Lot 3, C Street, Maple Grove Division. -- Assessor

(b) Waiver agreement waiving rights to public hearing by special assessment board for the construction of a 225 foot eight inch sanitary sewer in Arlington Avenue to serve Lot 3, C Street, Maple Grove Division. -- Engineer

99-0628-02 David Lax submitting petition to vacate that portion of the pedestrian and utility easement between Lot 1, Block 3 and Lot 1, Block 4, Bristolwood. -- Assessor

99-0628-03 Minnesota state auditor submitting audit report for the Duluth state convention center administrative board for the year ended December 31, 1998. -- Received

99-0628-04 Evensen Dodge, Inc., submitting postsale analysis for sale of \$4,530,000 G.O. tax increment bonds, Series 1999B. -- Received

99-0628-05 The following submitting communications regarding proposed regulation of electronically amplified sound emitted from motor vehicles (99-016-O): (a) Dale Larrivy; (b) Barbara Mitchell. -- Received

- - -

REPORTS OF OFFICERS

99-0628-29 Mayor Doty submitting communication regarding the concept of a Duluth citywide multi-use recreational facility. -- Received

Mayor Doty gave a presentation regarding the concept of a Duluth citywide multi-use recreational facility. He said that this concept plan is part of a state grant application to be part of the state of Minnesota capital bonding. Mayor Doty stressed that this is only a concept plan that would need about 40 acres and that the components could vary from what is shown on the diagram.

99-0628-06 Assessor submitting letter of sufficiency for petition to vacate that portion of the pedestrian and utility easement between Lot 1, Block 3 and Lot 1, Block 4, Bristolwood. -- Received

99-0628-28 Community development and housing division submitting memo providing update on environmental clearance and legal information regarding special use permit for the Women's Coalition new shelter construction project site (99-0462R). -- Received

99-0628-07 Engineering division submitting project status report for June 1, 1999. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-0628-08 Alcoholic beverage board minutes of May 12, 1999, meeting. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

- 99-0628-09 Board of zoning appeals minutes of May 25, 1999, meeting. -- Received
99-0628-10 Building appeal board minutes of March 10, 1999, meeting. -- Received
99-0628-11 Duluth airport authority: (a) Minutes of: (1) May 18, regular; (2) May 27, 1999, special meetings; (b) Unaudited balance sheet for month ended May 31, 1999. -- Received
99-0628-12 Duluth economic development authority minutes of: (a) May 18; (b) June 7, 1999, meetings. -- Received
99-0628-13 Environmental advisory council minutes of May 5, 1999, meeting. -- Received
99-0628-14 Housing and redevelopment authority minutes of April 27, 1999, meeting. -- Received
99-0628-15 Lawful gambling commission minutes of May 11, 1999, meeting. -- Received
99-0628-16 Planning commission minutes of: (a) May 11; (b) May 28, 1999, meetings. -- Received
99-0628-17 Sanitary sewer board for the WLSSD minutes of: (a) May 17; (b) June 7, 1999, meetings. -- Received
99-0628-18 Seaway Port authority of Duluth minutes of April 30, 1999, meeting. -- Received
99-0628-19 Technical design advisory committee for DWMX-D minutes of May 18, 1999, meeting. -- Received

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REPORTS OF COUNCILORS

Councilor Prettner Solon, as president of Duluth economic development authority (DEDA), presented Mayor Doty with the Global Bangemann and Challenge Award, from the King of Sweden, for innovative project work in the information technology field with the Duluth SoftCenter village.

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Jackie Falk, co-chair of the Designated Investment Fund and Dale Lewis, president of Park State Bank, presented Mayor Doty with a plaque in appreciation of the city of Duluth's support for the Designated Investment Fund, which has funds over \$3.5 million and supplies loans for low income housing, small business support, sustainable agriculture and environmental upkeep.

- - -

John Dargan expressed his concern over the parking situation at the Edison School in Kenwood, noting that the improvements do not allow for a safe drop off area or a close parking area for parents when they need to come to the school. He noted that with the road improvements approximately 12 parking spaces at the school were eliminated and that the streets alongside the school were designated no parking.

To councilors concerns, Administrative Assistant Hartl stated that he would have city staff contact Mr. Dargan to see what could be done.

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K.L. Lewis expressed her concern over the safety of a Duluth Transit Authority bus stopping at the intersection of Central Entrance and Anderson Road and the passengers walking to the Stoneridge Mall, creating a safety hazard.

- - -

Myrna Mathison expressed her concern that the recent changes to the Opus development that were just approved by the planning commission are substantially significant and change the nature of what was previously approved by the city council.

- - -

Tom Allnew voiced his opinion regarding what he felt were contradictory statements made by Councilor Gilbert regarding funding for the SoftCenter and other issues. He felt that the city should not be assisting with the funding for a private sector business.

- - -

Randy Virta questioned why the city has not responded to the previous questions that he and the neighbors have requested regarding the Women's Coalition special use permit.

Councilor Hardesty noted that the council has just received a memo (Public Document No. 99-0628-37) from Keith Hamre, community development and housing division manager, on this subject that answers the questions that his group brought forward, noting that there is no significant environmental impact and the project can proceed.

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

Councilor Prettner Solon moved passage of the consent agenda, which motion was seconded and unanimously carried.

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a supplemental agreement with the confidential bargaining unit which is in substantially the same form and contains the same terms and conditions as the document on file with the city clerk as Public Document No. 99-0628-20.

Resolution 99-0497 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

WHEREAS, the legislature of the state of Minnesota has enacted Laws of Minnesota 1999, Chapter 248, Section 21 (the "act"), providing for the issuance and sale of general obligation revenue refunding bonds to refund, in advance of their maturity, the city's gross revenue recreation facility bonds (Duluth Entertainment Convention Center/Imax dome theater project), Series 1994, dated as of December 1, 1994; and

WHEREAS, the act requires the approval of the Duluth City Council and the Duluth Entertainment Convention Center authority.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, that the provisions of the act are hereby ratified and approved in all respects.

Resolution 99-0535 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

T.A.D., Inc. (Pioneer Bar), 323 West First Street, for July 9, 1999, with the music ceasing at 11:00 p.m. and the serving ceasing at 12:30 a.m. (rain date: July 10, 1999).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Wizner Co. (Norman's Bar), 113 West First Street, for July 9, 1999, with the music ceasing at 11:00 p.m. and the serving ceasing at 12:30 a.m. (rain date: July 10, 1999).

Resolution 99-0493 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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

WHEREAS, a copy of said application was also filed with the city of Duluth as required by Minnesota Statutes 349.213, Subdivision 2, and 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 license.

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

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

	<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
1.	Congdon Park Recreational Association	Twins Bar	June 1, 1999

Resolution 99-0494 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places in the areas on First Street between Third and Fourth Avenue West and First and Second Avenue West, on July 9, 1999, in conjunction with the Downtown Sidewalk Days, provided that all alcoholic beverages consumed outside of designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 99-0495 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of a temporary on sale intoxicating liquor license, subject to any specific restrictions, and further subject to approval of the liquor control commissioner:

Ridgeview Country Club, 700 West Redwing Street, for July 29, 30, 31, and August 1, 1999, an application fee of \$400, with Pete Meisinger, manager.

Resolution 99-0507 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

BY COUNCILOR EDWARDS:

RESOLVED, that NuCentury Textiles be and hereby is awarded a contract for furnishing laundry/rental service for the various city departments/divisions in accordance with specifications on its low specification bid of an estimated total of \$90,700, 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 to budget allocations, successful performances and the agreement of both parties.

Resolution 99-0514 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals:

Woodland Fast Pitch Association (Miller Genuine Draft Fastpitch), Anoka and Woodland Avenue, for July 10 and 11, 1999, with Brett Klosowski, manager.

Resolution 99-0519 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of utility radio dispatcher, which were approved by the civil service board on June 1, 1999, and which are filed with the city clerk as Public Document No. 99-0628-21, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that the pay range and rates shall remain unchanged, pay range 26, pay rate \$2,428 to \$2,868.

Resolution 99-0486 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

BUILDING APPEAL BOARD

Allen Willman (general citizenry) for a term expiring February 1, 2000, replacing Jack Ball who resigned.

Resolution 99-0488 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

DULUTH PUBLIC ARTS COMMISSION

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Lyn Lokken for a term expiring September 30, 2002, replacing Mavis Whiteman who resigned.

Resolution 99-0491 was unanimously adopted.
Approved June 28, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

TECHNICAL DESIGN ADVISORY COMMITTEE for the DWMX-D

Michael Bowes (at large) for a term expiring May 31, 2000, replacing Robert Baeumler who resigned.

Resolution 99-0492 was unanimously adopted.
Approved June 28, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

DULUTH TRANSIT AUTHORITY

Darryl L. Scott (District 4) for a term expiring June 30, 2002, replacing Leslie Evans.

Resolution 99-0499 was unanimously adopted.
Approved June 28, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

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

DULUTH HOUSING COMMISSION

Johnnie Forrest (labor) for a term expiring November 8, 2002.

DULUTH HOUSING TRUST FUND BOARD

Johnnie Forrest (labor) for a term expiring September 30, 2002.

Resolution 99-0510 was unanimously adopted.
Approved June 28, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of claims investigator and adjuster, including a title change to city investigator and claims agent, which were approved by the civil service board on April 6, 1999, which are filed with the city clerk as Public Document No. 99-0628-22, are approved, that said classification shall remain subject to the city's collective bargaining agreement with its confidential unit employees, that the pay range shall change from pay range 9.5, pay rate \$3,129 to \$3,720 per month to pay range 10, pay rate \$3,363 to \$4,082 per month.

Resolution 99-0511 was unanimously adopted.
Approved June 28, 1999
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 the Duluth Bethel Society; 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 the Duluth Bethel Society.

Resolution 99-0377 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that, pursuant to Resolution No.99-0239, the agreement between the Duluth economic development authority (DEDA), city and housing and redevelopment authority of Duluth, MN, in the amount of \$100,000, as approved by the DEDA board at its meeting of June 22, 1999, pursuant to DEDA Resolution No. 99D-30, a copy of which is on file in the office of the city clerk as Public Document No. 99-0628-23, is hereby approved.

Resolution 99-0541 was unanimously adopted.

Approved June 28, 1999

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. 99-0628-24 with HRA and DEDA for acquisition of parcels and demolition of structures in the East Hillside, Central Hillside, Lincoln Park and West Duluth neighborhoods as a component of the At Home in Duluth Initiative, at a cost of \$100,000 payable by DEDA, and at no cost to the city.

Resolution 99-0433 was unanimously adopted.

Approved June 28, 1999

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 community development block grant (CDBG) agreement with LHB Engineers & Architects, substantially in the form of that on file in the office of the city clerk as Public Document No. 99-0628-25 relating to the SVCNDA/West Duluth streetscape plan (Phase I) in an amount not to exceed \$18,100, payable from 1999 Federal Program 262, Agency 622, Object 6245.

Resolution 99-0512 was unanimously adopted.

Approved June 28, 1999

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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>Legal Description</u>	<u>Location</u>
99040	St. Louis County Land Department 25 feet east side of 8th Street	between Dakota Avenue and Rearrangement of Block 70, Fir Street (Lincoln Park/West Duluth Proper Second End) Division (10-1130-150, 160, 170)
99042	Robert L. Janicek Collision 16 feet west side of 5th Street	between 37th and 38th Avenues Park (10-4010-2280) West (Merritt)
99063	Block 17, Oneota (10-3610-170)	side of Oneota Street between 48th and 49th Avenues West (West Duluth)
99068	John D. Drberg of south 549 feet west side of Myrtle Avenue	between Amity Creek and feet of northwest 1/4 of Woodland Cemetery (Woodland) northwest 1/4 southeast 1/4 T51-R14-Section 35 (10- 2720-00299)
99070	St. Louis County land department north 35 feet east side of First Street	between 26th and 27th Avenues West (Lincoln Park/West End)

Resolution 99-0513 was unanimously adopted.
Approved June 28, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the 1999 revised neighborhood matching grants funds guidelines (Public Document No. 99-0628-26) are hereby approved.
Resolution 99-0522 was unanimously adopted.
Approved June 28, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into individual neighborhood matching grants fund agreements for Round I, 1999, 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. 99-0628-27, for the following amounts and projects listed:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Grants (maximum allowable -\$10,000)

<u>Amount</u>	<u>Project</u>	<u>Organization</u>
\$ 1,426	Lakeside/Lester Park citizens' patrol	Lakeside/Lester Park Citizens' Patrol
\$ 6,911	Gary-New Duluth crime prevention program	Gary New-Duluth Citizen's Patrol
\$ 4,500	Endion Field preparation	Endion/East Hillside Neighborhood Coalition
\$10,000	Lincoln Park welcome signs	Lincoln Park Neighborhood Coalition
\$ 5,127	Merritt Park basketball court	Merritt Community Club
\$10,000	Piedmont Heights Community Club playground	Piedmont Heights Community Club
<u>\$ 1,000</u>	Tree planting-Lower Hunter's Park	Waverly Park Neighborhood Committee
\$38,964		

FURTHER RESOLVED, that the administrative assistant is authorized to increase the amount payable under any of the individual neighborhood matching grants fund agreements upon proof of unanticipated cost overruns beyond the control of the grantee provided that the individual project grants do not exceed the amount of grantee's match and further do not exceed \$10,000 per grant.

Resolution 99-0520 was unanimously adopted.
 Approved June 28, 1999
 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 Elite Tinting & Graphics, 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 the Elite Tinting & Graphics, Inc.

Resolution 99-0530 was unanimously adopted.
 Approved June 28, 1999
 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 with the Duluth state convention center administrative board, for the organization and promotion of the Fourthfest on July 4, 1999, in an amount of \$25,000, payable from Special Projects and Events Account 100-015-2030.

Resolution 99-0538 was unanimously adopted.
 Approved June 28, 1999
 GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

RESOLVED, that the proper city officials are hereby authorized to enter into the agreement which will provide for the Duluth Entertainment Convention Center to manage events on city owned bayfront property for 1999, at a cost of \$17,500, payable from Fund 100, Org. 500, Agency 1950, Object 5319.

Resolution 99-0539 was unanimously adopted.

Approved June 28, 1999

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 which will provide for Sea Services, Inc., to provide barge services for the Fourthfest, at a cost of \$8,000, payable from Fund 100, Org. 500, Agency 1950, Object 5319.

Resolution 99-0540 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

WHEREAS, the city has received notification from the Arrowhead Regional Development Commission of 1998 nutrition services contract (#18143) funds not spent in 1998 that are now available for the 1999 nutrition services contract (#18378); and

WHEREAS, said additional funds are to be added to the base amount of federal funds allocated for 1999 and will be paid through an increase in the per meal reimbursement rate from \$1.74 to \$1.76.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers execute contract addendum (Public Document No. 99-0628-31) and upon receipt of the funds from the Arrowhead Regional Development Commission, that such funds be deposited into Fund Account 272, Agency 031, Organization 6309.

Resolution 99-0502 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of that on file in the office of the city clerk as Public Document No. 99-0628-32, to city Contract No. 18468 with St. Louis County relating to the recreation grant for the Lake Superior and Mississippi Railroad, said amendment extending the term of the agreement for a period of six months at no change in the amount of the agreement.

Resolution 99-0504 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to accept a grant of \$2,359 from the Arrowhead Regional Development Commission implementing Title 3 of the Older Americans Act, to be used for the replacement of kitchen countertops at the Portman community center. The grant money shall be deposited in Fund No. 100-400-1812.

Resolution 99-0505 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved June 28, 1999
GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Krech & Ojard Consulting Engineers, for the sum of not to exceed \$30,323, payable from Capital Fund 450, Ag. 015, Org. 1997, Obj. C719, for providing certain construction engineering services to the city of Duluth in connection with the Lakewalk East pedestrian and bike trail extension, 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. 99-0628-33.

Resolution 99-0523 was unanimously adopted.

Approved June 28, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

BE IT RESOLVED, that the proper city officials are authorized to pay to Ken and Peggy Hanson the amount of \$6,981.76 in full settlement of all claims for damage to their property at 1146 Kenwood Avenue resulting from a watermain break which occurred on January 18, 1999; payment to be made from the self insurance fund.

Resolution 99-0498 was unanimously adopted.

Approved June 28, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, by Resolution of Intent Numbered 99-0487 approved on June 7, 1999, the council did request the administration to prepare plans and specifications for the extension of a watermain along Rice Lake Road beginning approximately 490 feet southerly of Allen Street to 1,845 feet northerly of Allen Street, then westerly approximately 1,400 feet to Arlington Avenue; and

WHEREAS, the parties proposed to be assessed for this project have agreed to waive their rights to a hearing and to waive the 60 day waiting period as provided by Section 62 of the City Charter (Public Document Nos. 99-0628-34(a)(b)(c));

NOW, THEREFORE, BE IT RESOLVED, that said extension be constructed; that the estimated total cost of said improvements as estimated by the department of public works and utilities engineers is \$272,000, payable from the public utility fund; that 1/2 the cost of said project be paid by special assessment against the land and premises specially benefited, which land and premises are described in the petition filed herein, and which description is hereby incorporated herein by reference to said petition; that those assessed be permitted to pay said installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment will satisfy all the requirements of Section 60 of the Charter of the city of Duluth.

Resolution 99-0509 was unanimously adopted.

Approved June 28, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Larson Chevrolet Oldsmobile, Inc., be and hereby is awarded a contract for furnishing and delivering four one ton Chevrolet vans and one four wheel drive, 8,600 lb.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

GVWR 3/4 ton pickup truck for the water and gas fleet division in accordance with specifications on its low specification bid of \$123,304.64, terms net 30, FOB destination, \$61,652.32 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5580 and \$61,652.32 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 99-0518 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized and directed to execute the agreement filed as Public Document No. 99-0628-35, with St. Louis County authorizing the city to provide engineering services to St. Louis County in the reconstruction of County State Aid Highway No. 9 (Wallace Avenue) between East Fourth Street and Arrowhead Road, for a consideration of not to exceed \$200,000, said proceeds to be deposited in the general fund - engineering service.

Resolution 99-0508 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 97-0370 to Seaway/S.E.H. for furnishing consulting engineering services to reconstruct Railroad Street from Garfield Avenue to Eighth Avenue West, be amended to increase the amount by \$49,000 for a new estimated total of \$335,315, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5299, Object 5530.

Resolution 99-0515 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete a study on bleacher design; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for the bleacher retrofit project at Wade and Wheeler fields; and

WHEREAS, Northland Consulting Engineers, L.L.P. has submitted a proposal for engineering design service 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, L.L.P., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$6,010, will be payable from the General Fund 100, Dept./Agency 500, Organization 2000, Object 5303.

Resolution 99-0516 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of street improvement of Creekside Circle including Appleridge Drive to 1,094 feet

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

southeasterly for the engineering division in accordance with specifications on its low specification bid of \$198,700.78, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5315, Object 5530.

Resolution 99-0521 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, Laura Schauer, pursuant to a permit from the city engineers, caused at her sole expense water, gas and sewer improvements to be made in Commonwealth Avenue to extend utilities to property owned by her more particularly described as Lots 39 through 44, Block 22, Morgan Park First Addition; and

WHEREAS, both the city engineer and the special assessment board feel that it is fair and equitable to return to Laura Schauer all fee in lieu of assessment charges made on utilities extended under City Project No. 9021SA97 for a period of ten years after the city's acceptance of the project to reimburse her for her construction costs.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth will return to Laura Schauer for a period of ten years after the acceptance of utilities extended in City Project No. 9021SA97 all fee in lieu of assessment charges made by the city to connecting property owners benefitting from said utility extensions.

Resolution 99-0525 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 98-0653 to L.H.B. Engineers and Architects for furnishing professional engineering services for survey and design for the replacement of Bridge L8157 located at Vermilion Road over Tischer Creek, be amended to increase the amount by \$17,957 for construction engineering services for a new estimated total of \$35,108, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2132, Object 5303.

Resolution 99-0528 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Interstate Detroit Diesel, Inc., be and hereby is awarded a contract for furnishing and delivering a standby generator for the sewer division in accordance with specifications on its low specification bid of \$21,290.20, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 99-0529 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Ulland Brothers, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 10,200 cubic yards of washed winter sand for the street maintenance division in accordance with specifications on its low specification bid of \$96,864.30, terms net 30,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5233.

Resolution 99-0533 was unanimously adopted.
Approved June 28, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Duluth-Superior Blacktop and Northland Bituminous be and hereby is awarded a contract for furnishing and delivering bituminous materials for the various departments and divisions in accordance with specifications on its low specification bid of an estimated total of \$146,601.50, terms net 30, FOB delivered, payable out of various funds, dept./agencies, organizations, and objects.

Resolution 99-0536 was unanimously adopted.
Approved June 28, 1999
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, 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 department; all revenues to be deposited in General Fund 200, Dept. 215, Org. 2454, Revenue Source 4230.

Resolution 99-0500 was unanimously adopted.
Approved June 28, 1999
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 Duluth City Code, 1959, as amended, the following angle parking is hereby established:

South side of Niagara Street from 75 feet west of Kenwood Avenue to 400 feet west of Kenwood Avenue.

RESOLVED FURTHER, that in accordance with the provisions of Section 33-98 of the Duluth City Code, the following no parking zone is hereby established:

North side of Niagara Street from Kenwood Avenue westerly 425 feet.

Resolution 99-0501 was unanimously adopted.
Approved June 28, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zones are hereby established:

West side of Lake Avenue from Superior Street to Second Street.

BE IT FURTHER RESOLVED, that in accordance with the provisions of Section 33-108 of the Duluth City Code, 1959, as amended, the following parking meter zone now in effect is rescinded:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

West side of Lake Avenue from Superior Street to Second Street.
Resolution 99-0524 was unanimously adopted.
Approved June 28, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement, filed as Public Document No. 99-0628-30, between the city of Duluth and Arrowhead Regional Corrections for the purpose of providing services of processing and assessment of juvenile offenders, at a cost to the city of \$35,000, to be paid from the Minnesota cities grant program, Police Special Revenue Fund 268, Agency 031, Organization 6234, Activity SCXX.

Resolution 99-0534 was unanimously adopted.
Approved June 28, 1999
GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 99-0506, by Councilor Edwards, approving the permanent expansion of the licensed premises of Chi-Chi's (Chi-Chi's Mexican Restaurant), 600 East Superior Street, and MKR, Limited (Bennett's on the Lake), 600 East Superior Street, was introduced for discussion.

Councilor Edwards stated that the administration has reported that the details of this change have not been resolved. She moved to table resolution, which motion was seconded and unanimously carried.

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Resolution 99-0489, confirming appointments of Julie Larson-Williams replacing Kathy Forslund and John deGroot replacing Mark Erickson to Duluth airport authority; Resolution 99-0490, confirming appointment of Amy Weidman to Duluth state convention center administrative board replacing John Scott; and Resolution 99-0537, confirming appointment of Cruz Mendoza to human rights commission replacing Mary Hernandez, by Councilor Rapaich, were introduced for discussion by Councilor Hogg.

Councilor Hogg moved to table the resolutions for interviews, which motion was seconded and unanimously carried.

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Resolution 99-0503, authorizing a community development block grant economic development project agreement in an amount not to exceed \$105,000 with Alakef Coffee Roasters, Inc., by Councilor Prettner Solon, was introduced for discussion.

Councilor Prettner Solon stated that the applicant is not available this evening and had requested to be present when the resolution is considered. She moved to table the resolution, which motion was seconded and unanimously carried.

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that C. Anderson Demolition, Inc., be and hereby is awarded a contract for demolition of 12 structures for the building inspection division in accordance with specifications

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

on its low specification bid of \$57,275, terms net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 020, Organization 1201, Object 5453.

Resolution 99-0517 was unanimously adopted.

Approved June 28, 1999

GARY L. DOTY, Mayor

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Resolution 99-0531, by Councilor Prettner Solon, supporting application of Scanhealth, Inc., for a state challenge grant, was introduced for discussion.

Councilor Swapinski stated his concern regarding a business spending a small amount of dollars versus the funding that they receive from the state and DEDA, for them to move to the technology center.

Councilor Gilbert noted the subsidy the city has given to the developer to build the SoftCenter, the assistance the city gave them to attract tenants and now this subsidy for a tenant. He felt that there needs to be policy discussions regarding these dollars and where the economic development dollars could possibly be spent elsewhere.

Councilor Hogg noted that the only local contribution will be \$20,000, which is not the issue for this resolution, and that the applicant will hire five to 12 full time jobs paying between \$30,000 to \$40,000 a year.

Councilor Swapinski moved to table the resolution for further information from the applicant regarding this application, which motion was seconded and failed upon the following vote:

Yeas: Councilors Gilbert, Hardesty and Swapinski -- 3

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

Absent: Councilor Rapaich -- 1

Resolution 99-0531 was adopted as follows:

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 ScanHealth, 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 ScanHealth, Inc.

Resolution 99-0531 was adopted upon the following vote:

Yeas: Councilors Edwards, Fena, Hales, Hogg, Prettner Solon and President Keenan -- 6

Nays: Councilors Gilbert and Swapinski -- 2

Absent: Councilor Rapaich -- 1

Approved June 28, 1999

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR HOGG

99-017 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF UP TO \$8,500,000 GENERAL OBLIGATION REFUNDING 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 ordinance was read for the second time:

BY COUNCILOR HALES

99-016 - AN ORDINANCE RELATING TO ELECTRONICALLY AMPLIFIED SOUND EMITTED FROM MOTOR VEHICLES, PROHIBITING EXCESSIVE NOISE; ADDING A NEW SECTION 34-23 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Dustin James stated his objections to the ordinance, noting that he previously had been involved with drugs and spent many dollars on them and now has changed his lifestyle with interest in music and a car stereo system. He noted the pride he takes in the equipment he has purchased. Mr. James felt that there should be some compromise on this issue.

K.L. Lewis voiced her support for this ordinance, noting that she only amplifies her music so she can hear it and that should be done by others.

Councilor Hogg moved to amend the ordinance by adding the following to the end of proposed Section 34-23:

“provided that this Section shall not apply to:

- (a) Sirens, horns or other signaling devices used by an authorized emergency vehicle as defined in Minnesota Statutes Section 169.01;
- (b) Vehicles in parades or other civic celebrations duly authorized by the city;
- (c) Motor vehicle horns when actually used as a warning of danger;
- (d) Anti-theft devices installed on motor vehicles,” which motion was seconded and unanimously carried.

Councilor Swapinski noted that a Hibbing ordinance is similar but he preferred their policy, where the first infraction is a warning and, when there is a fine, that it is \$20. He felt that this ordinance is not enforceable, it is a waste of police time, it gives too enforcement discretion to officers, it would not hold up in court, the courts will have too much discretion in fining up to \$700, and there is not a clear definition of what “music” is.

To Councilor Hales’ questions, Assistant City Attorney Smedberg stated that the courts, in other violation sections, have taken into consideration the city attorney’s or city council’s recommendations.

Councilor Swapinski moved to call the question on the ordinance, which motion failed for lack of a second.

President Keenan stated that he has not received one complaint from a citizen as to a need for this ordinance and noted that this is being brought to the council from some police officers. He further felt that motorcycle engines can make more noise than is referred to here.

Various councilors discussed at length the merits and need for this ordinance.

Councilor Hogg moved to table the amended ordinance so a fine schedule could be drafted, which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Hogg and Prettner Solon -- 6

Nays: Councilor Swapinski and President Keenan -- 2

Absent: Councilor Rapaich -- 1

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The meeting was adjourned at 9:20 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 12, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the council meeting held on May 10, 1999, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0712-01 UMD ITSS Department petitioning for concurrent use permit to install fiber optic communications cables beneath St. Marie Street. -- Planning commission

99-0712-20 EJM Austin submitting communication regarding noise pollution from motor vehicles (99-016-O). -- Received

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REPORTS OF OFFICERS

99-0712-03 Assessor submitting:

(a) Assessment roll levied to defray in full the expense of solid waste collection during the period March 1, 1998, to June 1, 1999, for which the licensed collector has not been reimbursed. -- Clerk

(b) Letter of sufficiency pertaining to the petition to construct 225 feet of eight inch sanitary sewer in Arlington Avenue to serve Lot 3, C Street, Maple Grove Division. -- Received

99-0712-04 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses from: (a) St. Margaret Mary Church (bingo and raffle) on September 19, 1999; (b) St. Mary's Foundation (raffle) on December 31, 1999; (c) St. Mary's Medical Center (raffle) on September 10, 1999. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-0712-05 Civil service board minutes of: (a) April 6; (b) May 20, 1999, meetings. -- Received

99-0712-06 Duluth airport authority minutes of April 20, 1999, meeting. -- Received

99-0712-07 Duluth housing commission and Duluth housing trust fund board minutes of: (a) April 8; (b) May 13, 1999, meetings. -- Received

99-0712-21 Duluth housing trust fund board minutes of April 28, 1999, meeting. -- Received

99-0712-08 Heritage preservation commission minutes of May 12, 1999, meeting. -- Received

99-0712-09 Parks and recreation commission minutes of May 12, 1999, meeting. -- Received

99-0712-10 Planning commission minutes of June 8, 1999, meeting. -- Received

99-0712-02 Special assessment board minutes of June 8, 1999, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Jerome Carlson requested a list of the people in the rural areas that refuse to pay their stormwater bills so he can organize a group. He stated frustration at the lengthy process of the city trying to decide the fee structure for the apartment owners and the rural people.

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J. Paul King stated that he owns a neighborhood business in Duluth and recently came under fire from building inspection to remove what they call illegal signs from his business. He continued by saying that these city officers have been hard to work with and he will be writing letters to various civic agencies stating why Duluth is not friendly to small businesses.

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RESOLUTIONS TABLED

Councilor Rapaich moved to remove Resolution 99-0489, confirming appointments of Julie Larson-Williams replacing Kathy Forslund and John deGrood replacing Mark Erickson to the Duluth airport authority; and Resolution 99-0490, confirming appointment of Amy Weidman to Duluth state convention center administrative board replacing John Scott, from the table, which motion was seconded and unanimously carried.

Resolution 99-0489 was adopted as follows:

BY COUNCILOR RAPAICH:

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

DULUTH AIRPORT AUTHORITY

John deGrood for a term expiring July 1, 2001, replacing Mark Erickson.

Julie Larson-Williams for a term expiring July 1, 2002, replacing Kathy Forslund.

Resolution 99-0489 was unanimously adopted.

Approved July 12, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0490 was adopted as follows:

BY COUNCILOR RAPAICH:

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

DULUTH STATE CONVENTION CENTER ADMINISTRATIVE BOARD

Amy Weidman for a term expiring June 30, 2002, replacing John Scott.

Resolution 99-0490 was unanimously adopted.

Approved July 12, 1999

GARY L. DOTY, Mayor

- - -

Councilor Prettner Solon moved to remove Resolution 99-0503, authorizing a community development block grant economic development project agreement in an amount of \$105,000 with Alakef Coffee Roasters, Inc., from the table, which motion was seconded and unanimously carried.

The owners, Nessim and Deborah Bohbot, stated that the resolution was tabled because they were out of the country last week and they wanted to review the contract before the council approved the resolution.

To Councilor Hogg's questioning, Ms. Bohbot replied that there were some changes in the contract that included a change in the price of the roaster, and that they will be hiring three full time employees at \$7.25 an hour with full benefits.

Resolution 99-0503 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into a community development block grant (CDBG) program agreement with Alakef Coffee Roasters, Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 99-0712-11, in an amount not to exceed \$105,000, payable from 1999 Federal Program 262, Agency 622.

Resolution 99-0503 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Gilbert -- 1

Approved July 12, 1999

GARY L. DOTY, Mayor

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CONSENT AGENDA

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

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

BY COUNCILOR RAPAICH:

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

NEIGHBORHOOD ADVISORY COUNCIL

Bradley Bennett (West Duluth) for a term expiring March 1, 2002, replacing Joseph Grant, who resigned.

Steve Schoenbauer (Morgan Park) for a term expiring March 1, 2002, replacing David Haglin, who resigned.

Resolution 99-0553 was unanimously adopted.

Approved July 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, Seven Bridges Road and its bridges are part of a designed landscape planned by the renowned landscape architecture firm Morell and Nichols, and are a component of Skyline Parkway, one of Duluth's most historically significant and unique landscape features; and

WHEREAS, Duluth's Skyline Parkway holds the honor of being designated a state scenic byway; and

WHEREAS, primary funding for this bridge rehabilitation work was secured through an ISTE A (transportation enhancement) grant obtained by city officials for which the Minnesota historical society grant is a match; and

WHEREAS, the Minnesota historical society has recognized the historical significance of Seven Bridges Road and its bridges, along with Skyline Parkway as a whole, and has now granted funds for rehabilitation of a portion of this historic resource; and

WHEREAS, the Duluth heritage preservation commission has been active in securing these funds and is a partner in monitoring the project.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, that the appropriate city officials are hereby authorized to enter into an agreement with the Minnesota historical society in order to receive a grant totaling \$24,000 for rehabilitation of Historic Bridge No.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

6 on Seven Bridges Road, said sum to be deposited into Capital Fund 450-015-1997-C709, said agreement to be substantially in the form of the document, on file in the office of the city clerk, and recorded as Public Document No. 99-0712-12.

Resolution 99-0543 was unanimously adopted.

Approved July 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a utility and pedestrian easement located in the Plat of Bristolwood legally described as: all that part of the utility and pedestrian easement located in the Plat of Bristolwood bounded by the following described lines:

on the north by the south right-of-way line of Chinook Drive;

on the west by the east line of Lot 1, Block 3, Plat of Bristolwood;

on the east by the west line of Lot 1, Block 4, Plat of Bristolwood;

on the south by a line which is a projection of the south line of Lot 1, Block 4, to the east line of Lot 1, Block 3, Plat of Bristolwood; 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 23, 1999, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the utility and pedestrian easement described above, and as more particularly described on Public Document No. 99-0712-13.

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

Resolution 99-0544 was unanimously adopted.

Approved July 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of North 11th Avenue West legally described as that portion of 11th Avenue West according to the Plat of Duluth Proper Second Division, located west of a line described as follows: beginning at the southern most corner of Lot 182, Block 67, Duluth Proper Second Division, thence, northerly on and along the west line of Lot 182 a distance of 30 feet thence turning 90 degrees east to the west right-of-way line of Summit Avenue/11th Avenue West which is the point of beginning; thence continuing easterly a to a point seven feet east of said west right-of-way line; thence turning 90 degrees north to a point of intersection with the west right of way line of said Summit Avenue/Eleventh Avenue West, said point being 35 feet northerly of the south east corner of Lot 182, Block 67; thence southerly along the westerly right of way line of said Summit Avenue/11th Avenue West to the point of beginning and there terminating; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959 as amended, such petition was duly referred to the city planning

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

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

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of that portion of 11th Avenue West described above, and as more particularly described on Public Document No. 99-0712-14.

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

Resolution 99-0545 was unanimously adopted.

Approved July 12, 1999

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 Fairbanks Avenue in the Plat of Ridgeview Heights and legally described as: Fairbanks Avenue adjoining Lots 1 & 8 in the Plat of Ridgeview Heights; 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 23, 1999, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Fairbanks Avenue described above, and as more particularly described on Public Document No. 99-0712-15.

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 street easement to be vacated.

Resolution 99-0546 was unanimously adopted.

Approved July 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officers are hereby authorized to accept a utility and pedestrian easement hereinafter described from David R. Lax, said easement necessary to replace a vacated easement on an adjoining lot and described as follows:

A 30 foot wide easement for pedestrian and utilities over, under and across that portion of Lot 1, Block 4, Plat of Bristolwood, the centerline of which is described as follows:

Beginning at the northwest corner of said Lot 1, Block 4; thence south 26 degrees 7 minutes 00 seconds east (assuming the west line of said Lot 1, Block 4 bears south 5 degrees 48 minutes 49 seconds west) a distance of 191.38 feet; thence south 63 degrees 53 minutes 00 seconds west a distance of 154.61 feet to the east line of Lot 1, Block 3, Plat of Bristolwood.

The sidelines of said easement shall be prolonged or shortened to terminate on the south right-of-way line of Chinook Drive on the north and on the east line of Lot 1, Block 3, Plat of Bristolwood on the west.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Said easement contains 10,374 sq. feet more or less.
Resolution 99-0548 was unanimously adopted.
Approved July 12, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that E. F. Anderson Inc., be and hereby is awarded a contract for furnishing and delivering one playground assembly with supervision for the assembly of same for the community development division in accordance with specifications on its low specification bid of \$24,823.02, terms net 30, FOB job site, payable out of CDBG Fund 262, Dept./Agency 622, Object 6213.

Resolution 99-0549 was unanimously adopted.
Approved July 12, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the 2001 visioning process identified the green and open spaces in the city as being a high priority element to be preserved in the community; and

WHEREAS, the city is in the process of preparing a comprehensive land use plan; and

WHEREAS, the environmental advisory council has deemed the identification of natural resources information as critical to their charge of advising the administration, city council and the public on environmental concerns and matters; and

WHEREAS, a grant application for funds to help pay for an inventory of the city's natural resources was prepared by the natural resources subcommittee of the environmental advisory committee and was submitted to the Minnesota department of natural resources for funding; and

WHEREAS, a Minnesota department of natural resources conservation partners/environmental grant of \$7,300 has been offered to the city to begin such an inventory for placement on GIS.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials be authorized to accept a grant in the amount of \$7,300 from the Minnesota department of natural resources to assist in funding an inventory of the city's natural resources, said funds to be deposited in Fund 210, Agency 030, Org. 2175, Source 4230.

Resolution 99-0552 was unanimously adopted.
Approved July 12, 1999
GARY L. DOTY, Mayor

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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 reserve \$50,000 of the city's fiscal year 1999 allocation of home program funds for use by Center City Housing Corp.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0554 was unanimously adopted.
Approved July 12, 1999
GARY L. DOTY, Mayor

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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% 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 proper city officials are hereby authorized to enter into 1999 HOME program CHDO operational/capacity building grant agreements, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 99-0712-16, with the entities listed below in an amount not to exceed the amounts listed below, payable from 1999 HOME Program Fund 260, Agency 020, Org. 2682, Obj. H009.

<u>Entities</u>	<u>Amount</u>
Neighborhood Housing Services of Duluth, Inc. (NHS)	\$12,000
Spirit Valley Citizen's Neighborhood Development Assn. (SVCNDA)	\$9,000
Northern Community Land Trust (NCLT)	\$9,000
Life House, Inc. (Life House)	\$7,000

FURTHER RESOLVED, that the CHDO operational/capacity building grant agreements with NHS and SVCNDA are contingent upon their certification as CHDOs.

Resolution 99-0559 was unanimously adopted.
Approved July 12, 1999
GARY L. DOTY, Mayor

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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% 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 proper city officials are hereby authorized to enter into a CHDO development grant agreement, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 99-0712-17 with Northern Communities Land Trust (NCLT) for new construction of two four-bedroom homes in the Gary-New Duluth neighborhood and with Housing & Redevelopment Authority of Duluth, MN, for disbursement and related services, in an amount not to exceed \$55,000, payable from 1999 HOME Program Fund 260, Agency 020, Org.2682, Obj. H003.

Resolution 99-0560 was unanimously adopted.
Approved July 12, 1999

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into amendments, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 99-0712-18 to the contracts listed below, extending the term of each agreement for the period of time stated below at no change in project cost.

City Contract Number 17992 - Central Hillside Community Club - Central Hillside Community Club event sign - six month extension;

City Contract Number 18046 - Lower Chester Hockey Association - Lower Chester Hockey Association project - 12 month extension;

City Contract Number 17998 - Lester Park/Lakeside Youth Coalition and Family Services Collaborative - youth intervention and prevention program - six month extension;

City Contract Number 18230 - Woodland Community Club - parking lot at Woodland Community Club - six month extension.

Resolution 99-0561 was unanimously adopted.

Approved July 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officers are hereby authorized to enter into an easement agreement with the Building for Women, for the consideration of \$30,000, payable from the Technology Village Parking Ramp Fund 465:

A temporary easement for construction, to expire July 1, 2000, over the following described property: Lot 14, East First Street, Duluth Proper, First Division.

Resolution 99-0564 was unanimously adopted.

Approved July 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 99-0712-19, with the Minnesota department of economic security to provide services under the Minnesota youth program as defined in the program year 1999-2000 local plan update from July 1, 1999, through June 30, 2000, up to the amount of funding provided by said department for said program. Program funds will be accepted upon receipt of notice of funds available. Funds received shall be deposited in Fund 268, Budget Item 6233.

Resolution 99-0542 was unanimously adopted.

Approved July 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Lunda Construction be and hereby is awarded a contract for rehabilitation of the Duluth aerial lift bridge for the city engineering division in accordance with specifications on its low specification bid of \$5,182,146.93, terms net 30, FOB job site, payable out of permanent improvement Fund 411, Dept./Agency 035, Organization 2102, Object 5520.

Resolution 99-0550 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved July 12, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Salo Engineering, Inc., be and hereby is awarded a contract for the professional engineering services for survey, geotechnical and design of year 2000 SIP for Central Lakeside - east, in accordance with specifications on its low specification bid of \$120,000, terms N30, FOB job site, payable out of 2000 SIP Fund 440, Dept./Agency 038, Organization 0001, Object 5530.

Resolution 99-0555 was unanimously adopted.

Approved July 12, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that RREM, an MSA division, be and hereby is awarded a contract for the professional engineering services for survey, geotechnical and design of year 2000 SIP for the city engineer's in accordance with specifications on its low specification bid of \$84,160, terms N30, FOB Duluth, payable out of 2000 SIP Fund 440, Dept./Agency 038, Organization 0003, Object 5530.

Resolution 99-0556 was unanimously adopted.

Approved July 12, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that LHB Engineers and Architects be and hereby is awarded a contract for the professional engineering services for survey, geotechnical and design of year 2000 SIP for the city engineer's in accordance with specifications on its low specification bid of \$120,179, terms N30, FOB job site, payable out of 2000 SIP Fund 440, Dept./Agency 038, Organization 0005, Object 5530.

Resolution 99-0557 was unanimously adopted.

Approved July 12, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Seaway/SEH be and hereby is awarded a contract for the professional engineering services for survey, geotechnical and design of Year 2000 SIP for upper woodland west in accordance with specifications on its low specification bid of \$65,100, terms N30, FOB job site, payable out of 2000 SIP Fund 440, Dept./Agency 038, Organization 0006, Object 5530.

Resolution 99-0558 was unanimously adopted.

Approved July 12, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zones are hereby rescinded:

Caldwell Street from 75th Avenue West to 78th Avenue West;
Caldwell Street from 84th Avenue West to 85th Avenue West.

Resolution 99-0551 was unanimously adopted.
Approved July 12, 1999
GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 99-0526, by Councilor Prettner Solon, accepting donation of Pine Knot Cabin and authorizing the appropriate city officials to enter into a grant agreement with the Minnesota department of natural resources (DNR) and to accept a \$5,000 grant for moving the cabin and restoring the site, was introduced for discussion.

Dick Gould, president of Park Point Community Club, stated that the club opposes this resolution as this trailhead interpretative center is not a viable project. He continued by saying that the trail on Park Point is overused and under-maintained and that, after a \$75,000 study, the DNR concluded that there are endangered species on the point and that the trail, beach and dunes all need to be improved before it is used anymore. He also stated that this project will bring more attention and people to the area, which will cause further damage. Mr. Gould reviewed that there are several areas on Park Point which are more important and in need of maintenance by the city, such as Lafayette Square.

Councilors Hogg and Hardesty voiced their concern that city buildings are in poor shape and that, if the city cannot maintain what they already own, they should not take on more buildings.

Councilor Hales reviewed that the DNR has proposed to take over the property and does not want this structure in the pine forest, and is offering this grant money to the city to remove the cabin because it wants to get the area back to its natural and historical state.

Chad Perkins, city planner, stated that this structure will be used as an educational tool for the end of Park Point; it will teach Duluthians a part of their history with very little cost to the city. He continued by saying that inside the cabin there will be an interpretative exhibit which will interpret both the natural history of the area and the history of Peabody's Ferry, which is an area that at one time had 50 cabins, of which this is the last remaining structure of the settlement.

Responding to Councilor Hardesty's questions, Mr. Perkins replied that the cabin has been donated by a family and will be owned and maintained by the city, and that the portion of the cabin that will be moved is the central 12 x 20 foot section once the additions have been taken off. He continued by saying that the main importance of this cabin is not the architecture, but the historical significance of the area. Mr. Perkins stated that the DNR will also be paying for the restoration of the current site the cabin sits on to remove the concrete and has verbally committed to helping with the interpretative exhibits that will go inside the cabin. He went on to say that they are looking for volunteer labor, such as from Duluth Preservation Alliance members, who would help with the work to be done on this project and that it has not been determined if an on site person is needed.

Councilor Gilbert questioned if the estimated annual cost to maintain this interpretative center is somewhat understated.

Dale Lucas, representing the Duluth Preservation Alliance, stated that the alliance voted unanimously to save this piece of history and urged support of this resolution. He stated that he has listened to the councilors' concerns about the money to be used for this project and said that the money for this project is to move the cabin and is a separate issue from the other projects needing money on Park Point. Mr. Lucas went on to say that the Pine Knot Cabin is a piece of significant history for the city that most people do not know anything about.

Councilor Hogg stated that while the councilors are concerned about preserving the heritage of this area, it is the responsibility of the councilors to know what the project will cost before voting on the resolution.

President Keenan stated he will support this resolution as it has high educational value and he believes that although the costs might not be accurate, the preservation of this cabin is a worthwhile project.

Councilor Hardesty stated that she would like to take advantage of the opportunity to make use of the cabin, but would like to see a plan for the use and care of the cabin before moving it.

Councilor Hales voiced concern over the number of people that may come to Park Point to use the trail and see the cabin, which will result in more problems for the point.

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

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

Nays: Councilor Swapinski and President Keenan -- 2

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INTRODUCTION AND CONSIDERATION OF ORDINANCES ORDINANCE TABLED

BY COUNCILOR HALES

99-016 (9416) - AN ORDINANCE RELATING TO ELECTRONICALLY AMPLIFIED SOUND EMITTED FROM MOTOR VEHICLES, PROHIBITING EXCESSIVE NOISE; ADDING A NEW SECTION 34-23 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Councilor Hales gave an explanation of what the ordinance is intended to do.

Councilor Hogg stated that without the council establishing fine limitations, the court may fine offenders up to \$700, which he believes is too high, especially for a first or second offense. Councilor Hogg moved to amend the ordinance by adding a new paragraph (b) as follows:

“(b) A violation of this Section is punishable by a fine of not to exceed \$50 for the first offense, a fine of not to exceed \$100 for the second offense, and a fine as provided in Section 1-7 of this Code for all subsequent offenses,” which motion was seconded for discussion.

Councilor Keenan stated he will not support the amendment or the ordinance because he sees no public safety value to it.

Councilor Edwards supported the amendment, noting that the playing of loud music in vehicles poses a safety hazard because drivers of such vehicles cannot hear emergency vehicles approaching from behind.

Councilor Hogg's amendment carried upon the following vote:

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

Nays: President Keenan -- 1

Councilor Gilbert stated he will vote against the ordinance because he believes it sends a negative message to young people and that punishing them for violations is not constructive. He suggested getting input from the youth advisory council.

Councilor Hardesty stated she is not prepared to support the ordinance and noted that police already have a means to intervene with the disturbing the peace offense presently in the Code. She added that she does not believe that having the police chase kids with loud stereos is justifiable or reasonable.

Councilor Hales noted that disturbing the peace regulations are utilized in residential and neighborhood situations where there are parties, etc., but that presently none of Duluth's laws address vehicular situations. She also noted that the youth Councilor Gilbert speaks of are 28

year old adults who can afford to spend exorbitant amounts of money for car stereos of this type. Councilor Hales stated this is not an assault on young people and it is unfortunate that there is a need for this ordinance, but she believes it is necessary as the city moves into the 21st Century. She recommended adoption of the ordinance and moved to call the question, which motion was seconded and carried upon the following vote:

Councilors: Edwards, Gilbert, Hales, Hardesty, Hogg, Prettnner Solon, Rapaich and Swapinski -- 8

Nays: President Keenan -- 1

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

Yeas: Councilors Edwards, Hales, Hogg, Prettnner Solon and Rapaich -- 5

Nays: Councilors Gilbert, Hardesty, Swapinski and President Keenan -- 4

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The following entitled ordinances were read for the first time:

BY COUNCILOR PRETTNER SOLON

99-019 - AN ORDINANCE DESIGNATING THE LESTER PARK BRANCH LIBRARY AS A DULUTH HERITAGE PRESERVATION LANDMARK.

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BY COUNCILOR PRETTNER SOLON

99-020 - AN ORDINANCE DESIGNATING THE WOODLAND BRANCH LIBRARY AS A DULUTH HERITAGE PRESERVATION LANDMARK.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR HOGG

99-017 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF UP TO \$8,500,000 GENERAL OBLIGATION REFUNDING 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 introduced the ordinance for discussion. He stated that the recent increase in interest rates along with the issuing costs for the bonds makes it less attractive to do this now. He stated that the council has the option of selling bonds in the future. Councilor Hogg also stated that it has been requested by the administration that the ordinance be returned. He moved to return the ordinance to the administration, which motion was seconded and unanimously carried.

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

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

- - -

ORDINANCE NO. 9416

BY COUNCILOR HALES:

AN ORDINANCE RELATING TO ELECTRONICALLY AMPLIFIED SOUND EMITTED FROM MOTOR VEHICLES, PROHIBITING EXCESSIVE NOISE; ADDING A NEW SECTION 34-23 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

The city of Duluth does ordain:

Section 1. That a new Section 34-23 be added to the Duluth City Code, 1959, as amended, to read as follows:

Sec. 34-23. Vehicle noise limits for electronically amplified sound.

(a) No motor vehicle, as defined in Section 33-1 of this Code, shall emit any electronically amplified sounds that are plainly audible at a distance of 50 feet from the vehicle, provided that this Section shall not apply to:

(1) Sirens, horns or other signaling devices used by an authorized emergency vehicle as defined in Minnesota Statutes Section 169.01;

(2) Vehicles in parades or other civic celebrations duly authorized by the city;

(3) Motor vehicle horns when actually used as a warning of danger;

(4) Anti-theft devices installed on motor vehicles;

(b) A violation of this Section is punishable by a fine of not to exceed \$50 for the first offense, a fine of not to exceed \$100 for the second offense, and a fine as provided in Section 1-7 of this Code for all subsequent offenses.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 15, 1999)

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

Yeas: Councilors Edwards, Hales, Hogg, Prettner Solon and Rapaich -- 5

Nays: Councilors Gilbert, Hardesty, Swapinski and President Keenan -- 4

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 12, 1999
Approved July 12, 1999
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, July 19, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: Councilor Prettner Solon and President Keenan -- 2

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Jason Lyons spoke regarding requests from the neighborhood for sidewalks on Haines Road.

Dane Youngblom spoke in opposition to stormwater utility fees being charged to rural Duluth residents.

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MOTIONS AND RESOLUTIONS

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of a temporary on sale intoxicating liquor license to the following licensee, with an application fee of \$200, subject to departmental approvals with any specific restrictions, and further subject to approval of the liquor control commissioner:

Sacred Heart John Chebul Memorial, Inc., 201 West Fourth Street, for July 23, 1999, with Janet Blixt, manager.

Resolution 99-0582 was unanimously adopted.

Approved July 19, 1999

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 7:40 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 26, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0726-29 Cal White, et al. (102 signatures) submitting communication pertaining to the regulation of animals (99-018-O). -- Received

99-0726-01 Evensen Dodge, Inc., submitting postsale analysis for sale of \$6,855,000 G.O. bonds, series 1999C and \$3,900,000 G.O. tax increment bonds, Series 1999D. -- Received

99-0726-30 Gary Stokes and Arne Anderson submitting materials regarding the re-establishment of the Duluth community action program. -- Received

Keith Hamre, community development and housing division manager, reviewed the nature of the re-establishment of the community action program (CAP) in Duluth, noting the assistance the state has provided in identifying the areas that have been missing since the prior CAP closed. He also stated that the new board will not be initially involved with weatherization and energy assistance since these programs are being provided efficiently by other agencies.

Arne Anderson, Minnesota department of children, families and learning, presented materials entitled "*Community Service Networks: The Community Services Block Grant in Action*" and "*Community Action Works 1997 Economic Opportunity Report*" which noted that one-third of a CAP board membership should consist of low-income citizens and the wide variety of activities conducted by community action agencies.

Gary Stokes, consultant for Move The Mountain Leadership Center, reviewed materials presented in the report regarding the re-establishment of the Duluth CAP.

99-0726-06 The following submitting communications regarding the Opus Development project (99-0547R): (a) Paul's Automotive; (b) Colin Thomsen. -- Received

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REPORTS OF OFFICERS

99-0726-02 Assessor submitting for confirmation the assessment rolls levied to defray the assessable portions of 1998 sidewalk repair and replacement (Contract 5312, \$75,999.25, assessable); Bellis sanitary sewer (Contract 7034, \$18,090.99, assessable); and Keene Avenue water and gas mains (Contract Nos. 1196031, \$10,368.67, assessable and 1196032, \$2,657.10, assessable). -- Clerk

99-0726-03 Engineering division submitting monthly project status report of July 1, 1999. -- Received

99-0726-04 Parks and recreation department director submitting Lake Superior zoological society minutes of May 26, 1999, meeting. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-0726-05 Alcoholic beverage board minutes of: (a) June 9; (b) June 18, 1999, meetings. -- Received

99-0726-08 Housing and redevelopment authority minutes of May 24, 1999, meeting. -- Received

99-0726-09 Lawful gambling commission minutes of June 8, 1999, meeting. -- Received

- 99-0726-10 Neighborhood advisory council minutes of June 15, 1999, meeting. --
Received
- 99-0726-11 Parks and recreation commission minutes of June 9, 1999, meeting. --
Received
- 99-0726-12 Sanitary sewer board for WLSSD minutes of June 21, 1999, meeting. --
Received
- 99-0726-13 Seaway Port authority of Duluth minutes of May 27, 1999, meeting. --
Received
- 99-0726-14 Special assessment board minutes of July 6, 1999, meeting. -- Received
- 99-0726-07 Spirit Mountain recreation area authority minutes of June 7, 1999, meeting. --
Received

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REPORTS OF COUNCILORS

Councilor Hardesty stated that she legally changed her name from Hardesty to Fena.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Jerome Carlson expressed his opposition to the stormwater utility tax for areas that are not connected to the stormwater system. He stated that he felt that this is unfair.

- - -

Tom Allnew stated that he felt that it was important to note that the *Duluth Budgeteer* is published twice a week and, in the future, when it increases to daily publications, that it will be classified as a legal newspaper.

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RESOLUTION TABLED

Councilor Rapaich moved to remove 99-0537, confirming appointment of Cruz Mendoza to human rights commission replacing Mary Hernandez, from the table, which motion was seconded and unanimously carried.

Councilor Rapaich stated that Mr. Mendoza was interviewed this evening.

Resolution 99-0537 was adopted as follows:

BY COUNCILOR RAPAICH:

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

HUMAN RIGHTS COMMISSION

Cruz Mendoza for the term expiring March 1, 2001, replacing Mary I. Hernandez, who resigned.

Resolution 99-0537 was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

BY COUNCILOR HOGG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

WHEREAS, pursuant to Minnesota Statutes, sections 469.152 to 469.165, as amended (the act), the Seaway Port authority of Duluth (the authority) proposes to finance a project (the project) consisting of acquisition, construction and equipping of an approximately 14,400 square foot warehouse facility on the north side of Air Park Boulevard, east of Venture Avenue, in the city of Duluth (the city) for the benefit of Second Harvest Northern Lakes Food Bank (the borrower), a Minnesota nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, the authority proposes to issue its revenue bonds or other obligations (the bonds) pursuant to the act in a principal amount up to approximately \$350,000 to finance the project, and to repay the bonds from payments to be made by the borrower pursuant to a loan agreement between the authority and the borrower; and

WHEREAS, the city must approve the authority's issuance of the bonds to finance the project on behalf of the borrower;

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, that the city hereby consents to and approves the undertaking and financing of the project by the authority for all purposes of the act and other applicable law.

Resolution 99-0567 was unanimously adopted.

Approved July 26, 1999

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. Recitals.

(a) The city, the township of Duluth, and the township of Lakewood, all of Saint Louis County, Minnesota, have agreed to form the Duluth/North Shore Sanitary District (the sanitary district), pursuant to Minnesota Statutes, Chapter 115, sections 115.18 through 115.37;

(b) The city intends to apply to the Minnesota public facilities authority (the PFA) for financial assistance to be used for the reimbursement of design and engineering costs incurred with respect to construction of a new wastewater collection system (the project) to be used by the sanitary district;

(c) The city estimates that it will require financial assistance from the PFA in the form of one or more tax-exempt loans in the maximum principal amount of \$225,000 (the obligations);

(d) The city has, or by the time of issuance of the obligations, will have the legal authority to apply for such financial assistance, and the institutional, managerial and financial capacity to ensure proper design and engineering of the project and repayment of the financial assistance;

(e) The sanitary district, once formed, will assume, by refunding or otherwise, payment of the obligations;

(f) The Internal Revenue Code of 1986, as amended, and Treasury Regulations Section 1.150-2 promulgated thereunder (the reimbursement rules), require that in order for the city to use the proceeds of an issue of tax-exempt obligations to reimburse an original expenditure paid before the issue date of the obligations, the city must adopt an official intent for the original expenditure not later than 60 days after payment thereof.

Section 2. Application for financial assistance.

The appropriate officers of the city are authorized and directed to apply to the PFA for financial assistance for the project.

Section 3. Expenditures.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

The city reasonably expects to incur expenditures with respect to the project in advance of issuance of obligations.

Section 4. Reimbursement.

(a) The city reasonably expects that expenditures for the project will be reimbursed from the proceeds of the obligations;

(b) The reimbursement will occur not later than three years after the later of the date the original expenditure was paid or the date the project is placed in service or abandoned.

Resolution 99-0568 was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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

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

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

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

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

<u>Licensee</u>	<u>Gambling site</u>	<u>Date application filed</u>
1. East End Hockey Club	Midway Bar	June 16, 1999
2. Duluth Junior Football League	T Bonz	July 6, 1999

Resolution 99-0580 was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals with any specific restrictions:

Beerhunters Softball Tournament, Wheeler Field, for July 31 and August 1, 1999, with Ronald Heurung, manager.

Duluth Softball Players Association, Wheeler Field, for August 16 through 26, 1999, and September 11 and 12, 1999, with John Vaydich, manager.

Waltman Tessier Softball Tournament, Wheeler Field, for August 27, 28 and 29, 1999, with John McAdamis, manager.

Resolution 99-0581 was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals with any specific restrictions:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Holiday Inn of Tukumcari (Canal Park Inn), 250 Canal Park Drive, for August 13-15, 1999, with the music ceasing at 12:30 a.m. and the serving ceasing at 1:00 a.m. on August 13 & 14, 1999, and the music and serving ceasing at midnight on August 15, 1999.

D & D Enterprises of Cloquet, Inc. (Mr. D's Bar & Grill), 5622 Grand Avenue, for August 5, 1999, with the serving ceasing at 11:00 p.m.

Modern Hotel, Inc. (Tom's Junkyard), 2023 West Superior Street for July 30, 1999, with the music ceasing at 11:00 p.m. and the serving ceasing at midnight.

Resolution 99-0583 was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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 August 31, 1999, and April 30, 2000, subject to departmental approvals:

Taste of Saigon, Inc. (Taste of Saigon), 394 Lake Avenue South, with Lan Nguyen, 60 percent stockholder, and Hung Ngoc Vo, 40 percent stockholder.

Resolution 99-0584 was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on portions on Ramsey Street between Grand Avenue and Central Avenue, on August 5, 1999, 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 99-0585 was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of a temporary on sale intoxicating liquor license to the following licensee, with a \$200 application fee, subject to department approvals with any specific restrictions, and further subject to approval of the liquor control commissioner:

Elk's Lodge #133, 4015 Airpark Boulevard, for October 23, 1999, with Dan Micheau, manager.

Resolution 99-0587 was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Stout Mechanical, Inc., be and hereby is awarded a contract for construction of an irrigation system at Jean Duluth soccer field for the city architect division in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

accordance with specifications on its low specification bid of \$46,440.83, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1999, Object C905.

Resolution 99-0592 was unanimously adopted.
Approved July 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Earl F. Andersen, Inc., be and hereby is awarded a contract for furnishing and delivering one playground assembly with supervision for the installation of the structures at Lincoln Park for the city architect division in accordance with specifications on its low specification bid of \$36,977.06, terms net 30, FOB job site, \$12,941.97 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1997, Object C704 and \$24,035.09 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1999, Object C902.

Resolution 99-0594 was unanimously adopted.
Approved July 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

NEIGHBORHOOD ADVISORY COUNCIL

Joseph Perfetti (west end/Lincoln park) for a term expiring March 1, 2002, replacing Daniel Nyquist who resigned.

Resolution 99-0562 was unanimously adopted.
Approved July 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

NEIGHBOHOOD ADVISORY COUNCIL

Carol Thomson (planning commission) for a term expiring March 1, 2001, replacing Jeffrey Jackson.

Resolution 99-0601 was unanimously adopted.
Approved July 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to City Contract No. 18107, with Center City Housing Corp., substantially in the form of that on file in the office of the city clerk as Public Document No. 99-0726-15, clarifying the number of units which must comply with federal HOME program provisions.

Resolution 99-0577 was unanimously adopted.
Approved July 26, 1999
GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

BY COUNCILOR PRETTNER SOLON:

RESOLVED, by the city council (the council) of the city of Duluth that the council hereby pledges to reimburse the Duluth economic development authority (DEDA) up to \$100,000 of amounts advanced by DEDA to Station Two Partnership (the partnership) under the Old Downtown code compliance program and the Old Downtown interior improvements loan program (the programs), payable from Fund 262, subject to receipt of Section 108 loan guarantee funds by the city from HUD.

FURTHER RESOLVED, that the proper city officials are hereby authorized, upon receipt of Section 108 funds from HUD, to transfer the amount of funds advanced by DEDA to the partnership from Fund 262 to DEDA Old Downtown Storefront Loan Program Fund 872.

FURTHER RESOLVED, that in the event that Section 108 funds are not received by the city from HUD, the city shall assign to DEDA all rights and obligations under the city's program agreements with the partnership including all security instruments and the proper city officials are hereby authorized to take all action required to effectuate said assignment.

Resolution 99-0598 was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that, pursuant to Resolution No. 99-239, the payment by Duluth economic development authority (DEDA) to Station Two Partnership in the amount of \$100,000, as approved by the DEDA board at its meeting of July 20, 1999, pursuant to DEDA Resolution No. 99D-27, a copy of which is on file in the office of the city clerk as Public Document No. 99-0726-16, is hereby approved.

Resolution 99-0609 was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Duluth Amateur Hockey Association for the operation of Peterson and Fryberger arenas, said agreement filed as Public Document No. 99-0726-18.

Resolution 99-0578 was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Kerotest Manufacturing, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 32 gas gate valves for the gas division in accordance with specifications on its low specification bid of \$43,009.60, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 99-0590 was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth desires to complete design engineering services; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design phase for a watermain along Rice Lake Road; and

WHEREAS, Ayres Associates, 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 Ayres Associates, Inc., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$6,800, will be payable from the Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 99-0599 was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

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

Section 1. Recitals.

(a) The city, the township of Lakewood, and the township of Duluth, all of St. Louis County, Minnesota, have agreed to jointly establish the Duluth/North Shore Sanitary District (the sanitary district) pursuant to Minnesota Statutes, Chapter 115 (the statute) (The city, the township of Lakewood, and the township of Duluth are herein referred to collectively as the municipalities);

(b) The territory of the proposed sanitary district consists of that part of Saint Louis County, Minnesota, bounded on the west by the center line of the Lester River, as it is depicted in the United States government survey on file in the office of the county recorder in Saint Louis County, Minnesota; bounded on the northwest by the southeasterly right of way of Minnesota State Highway 61; bounded on the east by the easterly border of Saint Louis County, Minnesota; and bounded on the southeast by the Lake Superior shoreline;

(c) On July 14, 1999, at 7:00 p.m., there was held a meeting to provide information to citizens regarding the proposed creation of a sanitary district (the meeting);

(d) The municipalities have prepared a petition for creation of a sanitary district pursuant to the statute (the petition);

(e) The statute provides that the petition must be signed by an authorized officer of the city pursuant to a resolution of the city council;

(f) The statute provides that a resolution authorizing signature of the petition must be published in the official newspaper of the governing body adopting it;

(g) The statute provides that a resolution authorizing signature of the petition shall become effective 40 days after its adoption.

Section 2. Findings.

(a) The sanitary district is proposed for the purpose of promoting the public health and welfare by providing an adequate and efficient system and means of collecting, conveying, pumping, treating and disposing of domestic sewage and garbage and industrial wastes within the sanitary district, that there is need throughout the territory of the sanitary district for the accomplishment of these purposes, that these purposes can be effectively accomplished on an equitable basis by creation of the sanitary district, and that the creation and maintenance of the sanitary district will be administratively feasible and in furtherance of the public health, safety and welfare;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

(b) The territory of the sanitary district embraces a group of two or more adjacent areas not situated entirely within the limits of a single municipality;

(c) It is necessary and expedient that the city council authorize execution of the petition and submission of the petition to the MPCA, along with a record of the meeting.

Section 3. Approval.

(a) The petition is approved;

(b) The creation of the sanitary district is approved.

Section 4. Board of managers of the sanitary district.

It is the intent of the municipalities that the membership of the board of managers of the district be composed of two members from the city of Duluth, two members from the town of Duluth and one member from the town of Lakewood.

Section 5. Authorization.

The mayor is hereby authorized and directed to sign the petition on behalf of the city and to cause a copy of the petition bearing his signature to be forwarded to the MPCA, along with a record of the meeting, and a certified copy of this resolution.

Section 6. Publication.

The city clerk is hereby authorized and directed to cause this resolution to be published in the official newspaper of the city.

Section 7. Effective Date.

This resolution shall be effective 40 days after passage and publication. *[Effective date: September 15, 1999]*

Resolution 99-0569 was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the rehabilitation of the Duluth Aerial Lift Bridge, Bridge No. L6116 over the Duluth Ship Canal, S.A.P. 118-140-25; and

WHEREAS, the grant has been approved and the amount of the grant has been determined to be \$1,028,351.18;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby accept said grant and affirms that any rehabilitation costs qualifying for Minnesota state transportation funds in excess of the grant will be appropriated from funds available to the city of Duluth and that any grant monies appropriated for reconstruction costs but not required, based on the final audit, shall be returned to the Minnesota state transportation fund.

Resolution 99-0586 was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Northland Constructors, Inc., be and hereby is awarded a contract for construction of Bayhill Drive, Pulaski Street to East Spirit Cove Drive for the engineering division in accordance with specifications on its low specification bid of \$61,945, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5321, Object 5530.

Resolution 99-0589 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved July 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Northland Constructors, Inc., be and hereby is awarded a contract for construction of Niagara Street, Kenwood Avenue to Centre Street 1999 street improvement project for the engineering division in accordance with specifications on its low specification bid of \$253,491.71, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9902, Object 5530.

Resolution 99-0591 was unanimously adopted.

Approved July 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete design engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for construction phase for Creekside Circle area; and

WHEREAS, Salo Engineering, Inc., has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Salo Engineering, Inc., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$23,700, will be payable from the Special Assessment Fund 810, Dept./Agency 038, Organization 5315, Object 5530.

Resolution 99-0593 was unanimously adopted.

Approved July 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, in Resolution 98-0229, the Duluth City Council approved an agreement with Hardesty and Hanover, LLP, to provide professional engineering services in connection with the rehabilitation of the Aerial Lift Bridge, said agreement filed as Public Document No. 98-0316-31, and amended by Resolution 98-1071; and

WHEREAS, during the performance of the above mentioned contract, it became evident to both the city and Hardesty and Hanover, LLP, that additional engineering work should be done with respect to reusing existing components of the electrical system of the bridge, a more extensive examination of bridge tower stresses, and several other areas dealing with bridge operations;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized to execute an amendment to the city's contract with Hardesty and Hanover, LLP, filed as Public Document No. 98-0316-31, and as amended by Public Document No. 98-1221-39, said amendment filed as Public Document No. 99-0726-19, authorizing additional engineering services as set forth above in an amount not to exceed \$33,500, payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2102, Object 5303, to be reimbursed from the municipal state aid fund.

Resolution 99-0595 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved July 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to enter into an agreement with Hardesty and Hanover, LLP, for the sum of not to exceed \$650,000, payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2102, Object 5303, to be reimbursed from the municipal state aid (MSA) fund, for providing construction engineering services to the city of Duluth in connection with the rehabilitation of the Aerial Lift Bridge, 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. 99-0726-20.

Resolution 99-0596 was unanimously adopted.

Approved July 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Duluth Ready Mix, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 10,200 cubic yards of washed winter sand for the street maintenance division in accordance with specifications on its low specification bid of \$88,829.25, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5233.

Resolution 99-0597 was unanimously adopted.

Approved July 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 98-0594 to Seaway/S.E.H. for furnishing engineering services required for survey, geotechnical and design of 1999 street improvement project for Kenwood area/Niagara Street, be amended to increase the amount by \$33,975 for a new total of \$61,440, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9902, Object 5530.

Resolution 99-0602 was unanimously adopted.

Approved July 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the city of Duluth is hereby authorized to enter into a grant agreement with the Minnesota department of public safety crime victim services crime victim and witness advisory council for the program entitled emergency fund for crime victims.

RESOLVED FURTHER, that the city attorney 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 99-0571 was unanimously adopted.

Approved July 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

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

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police and job training departments. All reimbursements to be deposited in Fund 268, Org. 6234.

Resolution 99-0576 was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 99-0496, by Councilor Edwards, in the matter of the on sale intoxicating liquor license of Copasetic, Inc. (Kozy Bar), 129 East First Street, was introduced for discussion.

Councilor Edwards moved to amend the resolution by deleting the words "fined \$50, and that the fine be suspended," and inserting the words "suspended for one day, that day being two weeks after the passage of this resolution, August 9, 1999," which motion was seconded and unanimously carried.

Resolution 99-0496, as amended, was adopted as follows:

BY COUNCILOR EDWARDS:

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. 99-0726-21 regarding any suspension, revocation, and/or fine relating to the on sale intoxicating liquor license of Copasetic, Inc. (Kozy Bar), 129 East First 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 Copasetic, Inc. (Kozy Bar), 129 East First Street, be suspended for one day, that day being two weeks after the passage of this resolution, August 9, 1999.

Resolution 99-0496, as amended, was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

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Resolution 99-0579, by Councilor Edwards, approving the exemption of a raffle license for Great Lakes Aquarium @ Lake Superior Center, was introduced for discussion.

Councilor Hogg voiced his disappointment that this nonprofit entity, that has stated they are an educational resource for youth, would choose to raise funds through raffles, which are a form of gambling. He also felt that, with this entity receiving large sums of public money, they have a responsibility to send a positive educational message. He stated that he will not support this.

Resolution 99-0579 was adopted as follows:

BY COUNCILOR EDWARDS:

WHEREAS, the Great Lakes Aquarium @ Lake Superior Center 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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 Great Lakes Aquarium @ Lake Superior Center and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

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

Resolution 99-0579 was adopted upon the following vote:

Yeas: Councilors Edwards, Fena, Gilbert, Hales, Prettner Solon, Rapaich, Swapinski and President Keenan -- 8

Nays: Councilor Hogg -- 1

Approved July 26, 1999

GARY L. DOTY, Mayor

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Resolution 99-0547, amending special use permit authorized to Opus Corporation; and Resolution 99-0588, authorizing development agreement with Opus Northwest L.L.C./Home Depot USA for the Trinity Road/Central Entrance development project, by Councilor Prettner Solon, were introduced for discussion.

Councilor Prettner Solon reviewed the details of how Resolution 99-0547 amends a prior resolution. She further stated that it is important for the council to review the plans of the residential housing to determine the effect of the plans on the watershed and the wetland. She moved to amend the resolution by amending Section (f) to read as follows:

“(f) The residential housing units shown on the plans prepared by RLK-Kuusisto, Ltd., and KKE Architects, dated June 3, 1999, shall be constructed only after submission by the corporation of complete design drawings for such residential housing units to be reviewed and approved by city planning staff and by the city council,” which motion was seconded and unanimously carried.

Councilor Prettner Solon moved to delete, in Resolution 99-0588, the words “/HOME DEPOT USA” and “and Home Depot U.S.A.” from the title, body, statement of purpose and development agreement, which motion was seconded and unanimously carried.

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

K.L. Lewis stated that she opposes this current proposal in that she feels this sort of development could be better placed elsewhere and at this location there is no advantage to the community at large.

Harry Munger stated his concern for the way the Miller Hill corridor has been developed, noting that the studies of water control, land use and watershed for this area have not been done yet, and also noting the lack of the reference to the preservation of the Miller Creek in the development agreement. He questioned why, in the development agreement, it does not state that the city will accept the “green” area.

Peggy Marrin voiced her concern over the process that a referendum against this area being developed passed the voters and how now, under the terms of a “community unit plan,” this area can be developed.

Councilor Hogg noted that the council did pass an ordinance not allowing future community unit plans, but the mayor vetoed the ordinance which would have not allowed this sort action in the future.

Colin Thomsen voiced his concern that this development should not include Home Depot because Home Depot is the target of an international boycott for its practice of selling products made with old growth lumber. He reviewed what old growth lumber is and the extent of loss of this irreplaceable resource. Mr. Thomsen noted that Duluth needs to take make a powerful statement as to what we really value.

Tim Murrand, vice president of real estate development for Opus Corporation, assured the council that Opus is committed to the dedication of the excess land as public space.

William Burns, attorney for Opus Corporation, reviewed that there will be, with just the Home Depot operation, approximately 350 jobs; sales tax revenue of \$400,000 a year; and real estate taxes of \$175,000 a year. Regarding the public space issue, he clarified that Opus is committed to the dedication of public space irregardless of the city taking title to the property. Regarding the issue of how one feels about community unit plans, Mr. Burns stated that this already is an approved community unit plan, and the choice is just if this plan, or the old plan, is better. He stated that in the environmental area, Home Depot has an "A" rating from the Economic Prioritize Corporate Report Card and an award for environmental excellence from the President's Council for Sustainable Development.

Mayor Doty stated that he has been discussing with Mr. Burns and Mr. Munger the issue of public space and that the city will proceed to draft the necessary document for the city to take title for the public space.

Councilor Swapinski noted that, while this is only a choice between what was previously approved or this version, he does take issue with a community unit plan being used for this development.

Councilor Gilbert stated that while he will support this, he has the concern that the community unit plan was abused in this process and that it will happen again, noting the lack of planning staff to work on developments that come up.

Resolution 99-0547, as amended, was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 5, 1998, the city council approved Resolution 98-0774 which granted a special use permit to OPUS Corporation for a community unit plan on property described as: the SW1/4, NW1/4 of Section 20, T50, R14, lying southerly of Central Entrance; SE1/4, NE1/4 of Section 19, T50, R14, lying easterly of Trinity Road and southerly of Central Entrance; Lots 34, 37 and 38, Auditors Plat of Trinity Road Acres; Sections 19 and 20 Township 50 North Range 14 West, city of Duluth, St. Louis County; and located at southeast corner of Trinity Road and Central Entrance; and

WHEREAS, said corporation has applied to amend said permit and said 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 by the amended plan.

NOW, THEREFORE, BE IT RESOLVED, that the special use permit granted pursuant to Resolution 98-0774 is hereby amended to authorize a community unit plan located at southeast corner of Trinity Road and Central Entrance, constructed and maintained in accordance with the plans submitted by RLK-Kuusisto Ltd., and KKE Architects, entitled Duluth Heights, RLK Project No. 96327M, sheets 1-13, dated 6/3/99 and Exhibit A Walkway dated 6-23-99 as identified as Public Document No. 99-0726-22 (the plan) and limited thereto and to the following terms and conditions:

(a) That prior to the issuance of any building permits for the project, developer shall have entered into an agreement with the city, in a form satisfactory to the city attorney, committing the developer to construct a five foot wide sidewalk on one side of the private roadway easement shown on the plan which parallels the entire length of the road connecting the interior sidewalks with the highway intersections, said construction to be completed within six months of the adoption of a plan for pedestrian facilities on the adjacent properties at both ends of said easement and further agreeing that, if developer fails to so complete said construction within said time frame, city may enter upon the project property and complete the construction of said pedestrian sidewalk and developer shall agree to reimburse city for all of its costs associated with such completion; developer shall further agree that if it fails to reimburse city for said costs, city may assess the costs of said improvements against all of the property in the project on a fair and equitable basis and shall waive, for itself and its successors and assigns, if any, any and all defenses to said assessment;

(b) The final project design shall include roadways which accommodate Duluth Transit Authority vehicles;

(c) That Outlot B be identified as a wetland and open space easement in the community unit plan;

(d) That the landscape plan (Sheet 8/13) provide that written criteria be established and approved by city planning commission staff for the maintenance, removal and thinning of the existing trees in the buffer areas shown on the plan which reasonably balance the need of the trees to act as a screening and buffering factor between the project and the surrounding neighborhoods and the project's needs for its signage to be visible from such surrounding neighborhoods;

(e) Signage shall be consistent within the plan, signage standards shall be submitted to and approved by the city planning staff prior to the issuance of any sign permits for the project and signage standards to be included in tenant leases shall be submitted to and approved by the city planning staff prior to the signing of any tenant leases;

(f) The residential housing units shown on the plans prepared by RLK-Kuusisto, Ltd., and KKE Architects, dated June 3, 1999, shall be constructed only after submission by the corporation of complete design drawings for such residential housing units to be reviewed and approved by city planning staff and by the city council.

Resolution 99-0547, as amended, was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

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Resolution 99-0588, as amended, 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. 99-0726-28 with OPUS Northwest L.L.C. for the development and construction of a retail development project in conformity with an approved community unit plan on property generally located at the intersection of Trinity Road and Central Entrance.

Resolution 99-0588, as amended, was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

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Resolution 99-0573, by Councilor Prettner Solon, approving receipt of \$27,500 from Minnesota department of natural resources for the continued administrative support of the McQuade public access committee, was introduced for discussion.

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

Bill Beudry stated that he supports the resolution and, while this resolution does not specifically deal with the issue of the project, he stated how well the project is coming. He noted the features planned. Mr. Beudry further noted that a recent study stated that the majority of boat launches are from the Duluth area and that the estimated cost for this project is approximately \$7.8 million.

Responding to Councilor Hogg's question, Cheryl Erickson, a staff person for the McQuade public access committee, stated that there are safe harbors either being considered, planned or started at Taconite Harbor, Silver Bay, Grand Portage, Two Harbors, Knife River and Grand Marais.

Steve Running voiced his concern that the issue tonight is if the city of Duluth will continue administering the state contract without city dollars being involved. He stated that the issue of the merits of the project is not the issue at this time.

Councilor Hogg voiced his concern over the resolution, stating his opposition to the city being the conduit for funding this project. He noted that his growing unease is for the cost of the project, the number of other safe harbors being developed close by and the that usage is going down. In conclusion, Councilor Hogg felt that the project is too expensive, of questionable value and the city should not be the conduit for this project.

Councilor Gilbert stated that while he has some concerns similar to Councilor Hogg regarding the project, he felt that this is not the time to voice opposition to the project because the issue now is the city's involvement in the process of funding the project. He felt that the time the legislative packages are being prioritized would be the time to address the project itself.

Councilor Swapinski stated that he has always voiced opposition to the city being involved in this project.

Councilor Fena suggested that in the future the city should look at finding another physical agent.

Resolution 99-0573 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the McQuade public access committee formed in cooperation with St. Louis County and the townships of Duluth and Lakewood 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 \$27,500 to the McQuade public access project for the period July 1, 1999 - June 30, 2000.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are authorized to execute an agreement with the Minnesota department of natural resources to assist with the administrative responsibilities of the McQuade public access committee in an amount not to exceed \$27,500, to be deposited in the General Fund 100, Administrative Services 015, miscellaneous, Organization 2020; said agreement to be substantially in the form of that certain document on file in the office of the city clerk as Public Document No. 99-0726-25.

Resolution 99-0573 was adopted upon the following vote:

Yeas: Councilors Edwards, Fena, Gilbert, Hales, Prettner Solon, Rapaich and President Keenan -- 7

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Nays: Councilors Hogg and Swapinski -- 2
Approved July 26, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the McQuade protected access committee continues to make progress on the project; and

WHEREAS, administrative services will be required for the next six months in order for the committee to complete its current work; and

WHEREAS, the authorized project budget for Cheryl Erickson's existing contract to provide such administrative services has been expended; and

WHEREAS, the McQuade protected access committee recommends Cheryl Lynn Erickson be contracted for her services.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are hereby authorized to increase existing agreement #17153 with Cheryl Lynn Erickson for administrative services by an amount not to exceed \$17,500 payable from Fund 100, Agency 015, ORG. MISC. 2020, OBJ. MS 26; said agreement to be substantially in the form of Public Document No. 99-0726-26 on file in the office of the city clerk. The effective term of the contract shall be from July 1, 1999 to June 30, 2000.

Resolution 99-0574 was adopted upon the following vote:

Yeas: Councilors Edwards, Fena, Gilbert, Hales, Hogg, Prettnner Solon, Rapaich and President Keenan -- 8

Nays: Councilor Swapinski -- 1
Approved July 26, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the McQuade protected access committee continues to make programs 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 budget authorized for Margaret Colombo's existing contract has been expended; and

WHEREAS, the committee will continue to need such services for the next 12 months; and

WHEREAS, the Minnesota department of natural resources has provided funding to the committee; and

WHEREAS, the McQuade protected access committee recommends the agreement with Margaret R. Colombo be amended for her continued services.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are hereby authorized to increase existing agreement #17222 with Margaret R. Colombo for public information services by an amount not to exceed \$9,000 payable from FUND 100, AGENCY 105, ORG. MISC. 2020, OBJ. MS 26; said agreement to be substantially in the form of Public Document No. 99-0726-27 on file in the office of the city clerk. The term of the contract shall be from July 1, 1999 to June 30, 2000.

Resolution 99-0575 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Yeas: Councilors Edwards, Fena, Gilbert, Hales, Hogg, Prettner Solon, Rapaich and President Keenan -- 8

Nays: Councilor Swapinski -- 1

Approved July 26, 1999

GARY L. DOTY, Mayor

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Resolution 99-0604, approving and authorizing the execution of a first supplemental trust indenture and first amendment to loan agreement with respect to the city of Duluth, Minnesota, \$8,470,000 commercial development revenue refunding Bonds (Duluth Radisson Hotel Project), Series 1995A, and 99-0605, approving and authorizing the execution of a first supplemental trust indenture and first amendment to loan agreement with respect to the city of Duluth, Minnesota, \$450,000 commercial development revenue refunding bonds (Duluth Radisson Hotel Project), Series 1995B, by Councilor Prettner Solon, were introduced for discussion.

Responding to Councilor Hogg's questioning, Todd Torvinen, finance department director, stated that the city has no legal obligation towards the 1986 industrial revenue bond issue that the city sponsored under an internal revenue requirement. He explained the detailed aspects of the nature of these resolutions, and other issues, as it relates to: failure to make bond payments, reserve fund shortages, payments for the improvements associated with the tunnel connections, assessments and capital improvements.

Councilor Hogg noted that he did not wish to sponsor and support these resolutions because of the lack of background information initially supplied.

Resolution 99-0604 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

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

Section 1. Recitals.

1.01 The City has previously issued its \$8,470,000 Commercial Development Revenue Refunding Bonds (Duluth Radisson Hotel Project) Series 1995A dated October 1, 1995 (the "Series 1995A Bonds").

1.02 The Series 1995A Bonds were issued pursuant to a Trust Indenture dated as of October 1, 1995 (the "Series 1995A Indenture") by and between the City and American Bank National Association, the successor by merger to which is Firststar Bank of Minnesota, N.A. (the "Trustee").

1.03 Pursuant to a Bond Purchase Agreement dated as of October 26, 1995 (the "Bond Purchase Agreement") by and among the City, Duluth Hotel Limited Partnership, a Minnesota limited partnership (the "Borrower") and Miller & Schroeder Financial, Inc. (the "Underwriter"), the Underwriter purchased the Series 1995A Bonds from the City and sold certain of them to Franklin High Yield Tax-Free Income Fund and Sit Minnesota Tax Free Income Fund, a portfolio of Sit Mutual Funds II, Inc. (the "Bondholders").

1.04 Franklin High Yield Tax-Free Income Fund presently holds \$5,390,000 in principal amount of the Series 1995A Bonds and Sit Minnesota Tax Free Income Fund, a portfolio of Sit Mutual Funds II, Inc. presently holds \$510,000 in principal amount of the Series 1995A Bonds.

1.05 Pursuant to a Loan Agreement dated as of October 1, 1995 (the "Series 1995A Loan Agreement") by and between the City and the Borrower, the City lent the proceeds of the sale of the Series 1995A to the Borrower.

1.06 The Borrower owns and operates a Radisson-affiliated hotel in Duluth, Minnesota (the "Facility").

1.07 The Borrower has deposited in the Reserve Fund established in the Series 1995A Indenture (the "Series 1995A Reserve Fund"), the following letters of credit:

(a) The Irrevocable Standby Letter of Credit Number 6072810 of American National Bank and Trust Company of Chicago in the amount of \$423,500 (the "American Bank Letter of Credit"); and

(b) The Irrevocable Letter of Credit No. 76874 of First Bank National Association (now known as US Bank National Association) in the amount of \$423,500 (the "US Bank Letter of Credit").

1.08 The Borrower lacked sufficient operating revenue to make payments due under the Series 1995A Loan Agreement and Series 1995A Indenture on June 1, 1998 and December 1, 1998. As a result, pursuant to Section 5.04 of the Series 1995A Indenture, the Trustee drew sufficient funds from the American Bank Letter of Credit and the US Bank Letter of Credit in order to make the required payments on the Series 1995A Bonds in June 1998 and December 1998.

1.09 The Borrower also lacked sufficient operating revenue to make payments due under the Series 1995A Loan Agreement and the Series 1995A Indenture on June 1, 1999. As a result, pursuant to Section 5.04 of the Series 1995A Indenture, the Trustee drew funds from the American Bank Letter of Credit and the US Bank Letter of Credit, but these amounts were not sufficient by \$89,293.68 to make the required payments on the Series 1995A Bonds due June 1, 1999.

1.10 On each occasion that the Trustee drew funds from the American Bank Letter of Credit and the US Bank Letter of Credit, the Borrower failed to restore amounts available in the Series 1995A Reserve Fund to the Reserve Requirement (as defined in the Series 1995A Loan Agreement) on the schedule set forth in Section 4.02(e) of the Series 1995A Loan Agreement, and accordingly, an Event of Default currently exists under the Series 1995A Loan Agreement.

1.11 Such Event of Default under the Series 1995A Loan Agreement also constitutes an Event of Default under Section 5.04 of the Series 1995A Indenture.

1.12 In order to permit the Borrower to finance certain renovations to the Facility, the Borrower and the Bondholders have agreed to instruct the Trustee to forbear from exercising certain of the Trustee's rights (pursuant to the Series 1995A Indenture and the Series 1995A Loan Agreement) for the time and subject to the terms and conditions set forth in a Forbearance Agreement dated as of March 22, 1999, by and among the Borrower and the Bondholders.

1.13 The Borrower has requested that the Bondholders waive the existing Events of Default and amend the Series 1995A Loan Agreement (a) with respect to the timing of the requirement that amounts available in the Series 1995A Reserve Fund be restored the Reserve Requirement and (b) to permit release of the American Bank Letter of Credit and the US Bank Letter of Credit.

1.14 The Bondholders have agreed to the Borrower's request and desire that the City and the Trustee enter into a supplemental Series 1995A Indenture pursuant to Section 11.03 of the Series 1995A Indenture and that the City and the Borrower enter into an amendment to the Series 1995A Loan Agreement pursuant to Section 12.02 of the Series 1995A Indenture, each regarding the waiver and amendment described in Section 1.13 of this Resolution.

1.15 The following documents have been submitted to the City and are now on file in the office of the Clerk:

(a) A First Supplemental Trust Indenture dated as of July 1, 1999 to be executed between the City and the Trustee (the "Supplemental Indenture"); and

(b) A First Amendment to Loan Agreement dated as of July 1, 1999 to be executed between the City and the Borrower (the "Supplemental Loan Agreement"). (The Supplemental Indenture and the Supplemental Loan Agreement are referred to herein as the "Documents".)

1.16 The Bondholders have reviewed drafts of the Documents.

Section 2. Approval.

2.01 The Documents are hereby made a part of this Resolution as though fully set forth herein and are hereby approved in substantially the forms presented to the Council. The Mayor and the Clerk are authorized and directed to execute, acknowledge, and deliver the Documents on behalf of the City with such changes, insertions, and omissions therein as Fryberger, Buchanan, Smith & Frederick, P.A., bond counsel for the Series 1995A Bonds, may hereafter deem appropriate, such execution to be conclusive evidence of approval of the Documents in accordance with the terms hereof.

2.02 The Mayor and the Clerk are authorized and directed to execute and deliver all other documents which may be required under the terms of the Documents or by bond counsel, and to take such other action as may be required or deemed appropriate for the performance of the duties imposed thereby to carry out the purposes thereof.

2.03 The Mayor, Clerk and other officers of the City are authorized to furnish to the Trustee and bond counsel certified copies of all proceedings and records of the City relating to the Documents, and such other affidavits and certificates as may be required to show the facts relating to the approval and legality of the Documents as such facts appear from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies, certificates, and affidavits, including any heretofore furnished, shall constitute representations of the City as to the truth of all statements contained therein.

2.04 In the event that for any reason the Mayor or the Clerk are unable to carry out the execution of any of the Documents or other acts provided herein, any other officer of the City or member of its Council as in the opinion of the City's attorney, are authorized to act in that capacity and undertake such execution or acts on behalf of the City, shall without further act or authorization execute and deliver all instruments and documents required to be done or executed by such officers, with full force and effect, which executions or acts shall be valid and binding on the City.

Section 3. Condition Precedent.

3.01 Notwithstanding any provision in this Resolution to the contrary, the approvals and authorizations set forth in Section 2 of this Resolution are specifically conditioned on Borrower being current with any payments of money owing to the City of Duluth or the Duluth Economic Development Authority, such payments including but not limited to, administrative fees due under Section 4.09 of the Series 1995A Loan Agreement and payments which may be due in connection with the extension of the downtown skyway system to serve the Facility.

Resolution 99-0604 was adopted upon the following vote:

Yeas: Councilors Edwards, Fena, Gilbert, Hales, Prettner Solon, Rapaich, Swapinski and President Keenan -- 8

Nays: Councilor Hogg -- 1

Approved July 26, 1999

GARY L. DOTY, Mayor

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Resolution 99-0605 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

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

Section 1. Recitals.

1.01 The City has previously issued its \$450,000 Commercial Development Revenue Refunding Bonds (Duluth Radisson Hotel Project) Series 1995B dated October 1, 1995 (the "Series 1995B Bonds").

1.02 The Series 1995B Bonds were issued pursuant to a Trust Indenture dated as of October 1, 1995 (the "Series 1995B Indenture") by and between the City and American Bank National Association, the successor by merger to which is Firststar Bank of Minnesota, N.A. (the "Trustee").

1.03 Pursuant to a Loan Agreement dated as of October 1, 1995 (the "Series 1995B Loan Agreement") by and between the City and the Borrower, the City lent the proceeds of the sale of the Series 1995B to the Borrower.

1.04 The Borrower owns and operates a Radisson-affiliated hotel in Duluth, Minnesota (the "Facility").

1.05 The Borrower has deposited in the Reserve Fund established in the Series 1995B Indenture (the "Series 1995B Reserve Fund"), the following letters of credit:

(a) The Irrevocable Standby Letter of Credit Number 6072809 of American National Bank and Trust Company of Chicago in the amount of \$93,500 (the "American Bank Letter of Credit"); and

(b) The Irrevocable Letter of Credit No. 76875 of First Bank National Association (now known as US Bank National Association) in the amount of \$93,500 (the "US Bank Letter of Credit").

1.06 The Borrower lacked sufficient operating revenue to make payments due under the Series 1995B Loan Agreement and Series 1995B Indenture on June 1, 1998 and December 1, 1998. As a result, pursuant to Section 5.04 of the Series 1995B Indenture, the Trustee drew sufficient funds from the American Bank Letter of Credit and the US Bank Letter of Credit in order to make the required payments on the Series 1995B Bonds in June 1998 and December 1998.

1.07 The Borrower also lacked sufficient operating revenue to make payments due under the Series 1995B Loan Agreement and the Series 1995B Indenture on June 1, 1999. As a result, pursuant to Section 5.04 of the Series 1995B Indenture, the Trustee drew funds from the American Bank Letter of Credit and the US Bank Letter of Credit, but these amounts were not sufficient by \$89,293.68 to make the required payments on the Series 1995B Bonds.

1.08 On each occasion that the Trustee drew funds from the American Bank Letter of Credit and the US Bank Letter of Credit, the Borrower failed to restore amounts available in the Series 1995B Reserve Fund to the Reserve Requirement (as defined in the Series 1995B Loan Agreement) on the schedule set forth in Section 4.02(d) of the Series 1995B Loan Agreement, and accordingly, an Event of Default currently exists under the Series 1995B Loan Agreement.

1.09 Such Event of Default under the Series 1995B Loan Agreement also constitutes an Event of Default under Section 5.04 of the Series 1995B Indenture.

1.10 The Borrower has requested that the holders of the Series 1995B Bonds (the "Bondholders") waive the existing Events of Default and amend the Series 1995B Loan Agreement (a) with respect to the timing of the requirement that amounts available in the Series 1995B Reserve Fund be restored the Reserve Requirement and (b) to permit release of the American Bank Letter of Credit and the US Bank Letter of Credit.

1.11 The Bondholders have agreed to the Borrower's request and desire that the City and the Trustee enter into a supplemental Series 1995B Indenture pursuant to Section 11.03 of the Series 1995B Indenture and that the City and the Borrower enter into an amendment to the Series 1995B Loan Agreement pursuant to Section 12.02 of the Series 1995B Indenture, each regarding the waiver and amendment described in Section 1.10 of this Resolution.

1.12 The following documents have been submitted to the City and are now on file in the office of the Clerk:

(a) A First Supplemental Trust Indenture dated as of July 1, 1999 to be executed between the City and the Trustee (the "Supplemental Indenture"); and

(b) A First Amendment to Loan Agreement dated as of July 1, 1999 to be executed between the City and the Borrower (the "Supplemental Loan Agreement"). (The Supplemental Indenture and the Supplemental Loan Agreement are referred to herein as the "Documents".)

Section 2. Approval.

2.01 The Documents are hereby made a part of this Resolution as though fully set forth herein and are hereby approved in substantially the forms presented to the Council. The Mayor and the Clerk are authorized and directed to execute, acknowledge, and deliver the Documents on behalf of the City with such changes, insertions, and omissions therein as Fryberger, Buchanan, Smith & Frederick, P.A., bond counsel for the Series 1995B Bonds, may hereafter deem appropriate, such execution to be conclusive evidence of approval of the Documents in accordance with the terms hereof.

2.02 The Mayor and the Clerk are authorized and directed to execute and deliver all other documents which may be required under the terms of the Documents or by bond counsel, and to take such other action as may be required or deemed appropriate for the performance of the duties imposed thereby to carry out the purposes thereof.

2.03 The Mayor, Clerk and other officers of the City are authorized to furnish to the Trustee and bond counsel certified copies of all proceedings and records of the City relating to the Documents, and such other affidavits and certificates as may be required to show the facts relating to the approval and legality of the Documents as such facts appear from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies, certificates, and affidavits, including any heretofore furnished, shall constitute representations of the City as to the truth of all statements contained therein.

2.04 In the event that for any reason the Mayor or the Clerk are unable to carry out the execution of any of the Documents or other acts provided herein, any other officer of the City or member of its Council as in the opinion of the City's attorney, are authorized to act in that capacity and undertake such execution or acts on behalf of the City, shall without further act or authorization execute and deliver all instruments and documents required to be done or executed by such officers, with full force and effect, which executions or acts shall be valid and binding on the City.

Section 3. Condition Precedent.

3.01 Notwithstanding any provision in this Resolution to the contrary, the approvals and authorizations set forth in Section 2 of this Resolution are specifically conditioned on Borrower being current with any payments of money owing to the City of Duluth or the Duluth Economic Development Authority, such payments including but not limited to, administrative fees due under Section 4.09 of the Series 1995B Loan Agreement and payments which may be due in connection with the extension of the downtown skyway system to serve the Facility.

Resolution 99-0605 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Yeas: Councilors Edwards, Fena, Gilbert, Hales, Prettner Solon, Rapaich, Swapinski and President Keenan -- 8

Nays: Councilor Hogg -- 1

Approved July 26, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0570, by President Keenan, establishing the salary and fringe benefits of the mayor, was introduced for discussion.

President Keenan stated that this resolution raises the salary of the mayor, which has not been raised in five years, and that this will not become effective until the next mayor's term in January 2000.

Councilor Hogg noted that with this salary not being changed in the last five years, it is about a two percent a year increase since it was last changed.

Resolution 99-0570 was adopted as follows:

BY PRESIDENT KEENAN:

RESOLVED, that the annual salary for the office of mayor for the term beginning January 3, 2000, shall be \$78,000.

RESOLVED FURTHER, that the mayor shall be entitled to the following fringe benefits:

(a) A monthly car allowance in the amount of \$400;

(b) Hospital-medical insurance benefits that are available to city employees, including family coverage. The city shall pay the entire cost of single coverage and up to \$500 per month of the cost of family coverage;

(c) Dental insurance benefits that are available to city employees, including the right to cover eligible dependents under the city's dental care plan. The city shall pay the entire cost of single coverage, but shall not be responsible for any of the cost of dependent coverage;

(d) Group term life insurance in the amount of \$50,000;

(e) Long term disability income benefits that are available to other city employees.

RESOLVED FURTHER, that this resolution shall be effective on January 3, 2000.

Resolution 99-0570 was unanimously adopted.

Approved July 26, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0572, by President Keenan, requesting the Charter commission to recommend adoption of an ordinance amending Section 5 of the City Charter to increase the pay of city councilors from \$625 per month to \$833 per month, was introduced for discussion.

President Keenan noted since he was not going to be on the council next year, he felt it was appropriate that he take action on this. He felt that with the many hours and responsibilities that each councilor puts in that this change was deserving. President Keenan stated that it has been ten years since this was changed and that this still must go to the Charter commission for a majority vote and come back to the council for a unanimous vote.

Resolution 99-0572 was adopted as follows:

BY PRESIDENT KEENAN:

RESOLVED, that the city council hereby requests the Charter commission to recommend adoption of an ordinance amending Section 5 of the City Charter to increase the pay of city councilors from \$625 per month to \$833 per month, which proposed ordinance is on file in the office of the city clerk as Public Document No. 99-0726-17.

Resolution 99-0572 was unanimously adopted.
Approved July 26, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that the city council of the city of Duluth does hereby express its intention to fund the portion of the costs of the Trinity Road/Central Entrance highway improvement project bearing state project number S.P.6915-104 (T.H. 53) to be funded by sources other than state of Minnesota, including those improvements necessary to facilitate the proposed OPUS Development project, in the estimated amount of \$552,690.

Resolution 99-0600 was unanimously adopted.
Approved July 26, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

WHEREAS, communities across the United States have designated August 3, 1999, 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 3, 1999, 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 99-0565 was unanimously adopted.
Approved July 26, 1999
GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILORS PRETTNER SOLON AND HALES

99-021 - AN ORDINANCE AMENDING SECTION 26-10 OF THE CITY CODE RELATING TO SPEED REGULATIONS IN THE DULUTH SHIP CANAL.

- - -

BY COUNCILOR HALES

99-018 - AN ORDINANCE AMENDING CHAPTER 6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE REGULATION OF ANIMALS.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR PRETTNER SOLON

99-019 (9717) - AN ORDINANCE DESIGNATING THE LESTER PARK BRANCH LIBRARY AS A DULUTH HERITAGE PRESERVATION LANDMARK.

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

BY COUNCILOR PRETTNER SOLON

99-020 (9718) - AN ORDINANCE DESIGNATING THE WOODLAND BRANCH LIBRARY AS A DULUTH HERITAGE PRESERVATION LANDMARK.

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

COUNCILOR QUESTIONS AND COMMENTS

To Councilor Hales' request to what the city's legal costs are relative to the Demolition Landfill litigation, City Attorney Dinan stated that an update report can be prepared.

Councilor Hales stated that recently there were two major public events and a wedding service at the end of Park Point at the same time and requested that the administration look at better coordination of activities.

The meeting was adjourned at 9:40 p.m.

JEFFREY J. COX, City Clerk

ORDINANCE NO. 9417

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE DESIGNATING THE LESTER PARK BRANCH LIBRARY 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 Lester Park Branch Library as a Duluth Heritage Preservation Landmark; said landmark is described in Public Document No. 99-0726-23 on file with the city clerk and is described as follows: Lots 1 and 2, Block 14, Lester Park Second Division.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 5, 1999)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed July 26, 1999

Approved July 26, 1999

GARY L. DOTY, Mayor

ORDINANCE NO. 9418

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE DESIGNATING THE WOODLAND BRANCH LIBRARY 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 Woodland Branch Library as a Duluth Heritage Preservation Landmark; said landmark is described in Public Document No. 99-0726-24 on file with the city

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

clerk and is described as follows: Lots 1, 2 and 3, Block 12, Woodland Park Second Division (10-4670-01650).

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 5, 1999)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 26, 1999
Approved July 26, 1999
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 9, 1999, 7:50 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fena, Gilbert, Hales, Hogg, Prettner Solon, Rapaich, Swapinski and President Keenan -- 8

Absent: Councilor Edwards -- 1

- - -

The minutes of meetings held May 24, June 3 and 7, 1999, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0809-01 Thomas and Esther Beeman, et al. (five signatures), submitting petition to vacate 50th Avenue East street easement between Oneida Street and Glenwood Street. -- Assessor

99-0809-25 Jerome Carlson submitting list of improvements accomplished by the Duluth public works department and other entities that make a stormwater utility and the fees charged for it unnecessary (Ordinance No. 9369). -- Received

99-0809-02 George Hovland appealing items 3 - A and B of planning commission decision of July 28, 1999, regarding water resources management ordinance variance request and special use permit application of Snowflake Cross Country Ski Center. -- Committee 2 (planning)

99-0809-26 Nancy Lee Owens submitting communication regarding the wooden staircase at North Seventh Avenue West and Third Street (supported by 31 signatures). -- Received

99-0809-03 Wireless North submitting for council comment a modified design for a communication tower proposed to be located on Lester Park golf course (98-0852R). -- Received

- - -

REPORTS OF OFFICERS

99-0809-04 Assessor submitting assessment roll levied to defray the assessable portion of Contract No. 5323 (winter 1998-99 snow removal). -- Clerk

99-0809-05 Clerk submitting applications to Minnesota gambling control board for exemption from lawful gambling licenses from: (a) St. John's Church (bingo) on November 7, 1999, and March 5, 2000; (b) Duluth Art Institute (raffle) during November 4 - 6, 1999. -- Received

99-0809-06 Community development and housing division submitting:

(a) HRA housing rehabilitation report for May and June, 1999. -- Received

(b) Community development block grant (CDBG) project proposals/applications for FY 2000 program. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-0809-07 Duluth airport authority: (a) Minutes of June 15, 1999; (b) Unaudited balance sheet for month ended June 30, 1999. -- Received

99-0809-09 Civil service board minutes of: (a) March 2; (b) May 4, (c) June 1, 1999, meetings. -- Received

99-0809-08 Heritage preservation commission minutes of June 9, 1999, meeting. -- Received

99-0809-10 Housing and redevelopment authority minutes of June 29, 1999, meeting. -- Received

99-0809-11 Sanitary sewer board of WLSSD minutes of July 12, 1999, meeting. -- Received

99-0809-12 Seaway Port authority of Duluth submitting tax increment financing district reports for the year ending December, 1998, for the Rices Point and Airpark tax increment financing districts. -- Received

99-0809-13 Spirit Mountain recreation area authority minutes of: (a) May 20; (b) June 7, 1999, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Jerome Carlson (Public Document No. 99-0809-25) noted that in the 1999 State of the City address there are references to sewer operations that the city maintains already and expressed his opinion that city residents that are not connected to the stormwater system should not be required to pay the new stormwater utility assessment.

- - -

Karen Lewis voiced her safety concerns regarding: the intersection of First Street and Fourth Avenue East, given the steepness of the avenue and the lack of visibility; planes from Sky Harbor Airport are flying too low when they cross over the hospital areas; and there are many intersections in the Downtown area where cars are not watching out for pedestrians.

- - -

Grey Doffin noted that a communication (Public Document No. 99-0809-26) has stated that the wooden steps above Third Street at Seventh Avenue West were demolished last year because they had become rotten and unsafe. He requested that the city find some way to replace those steps and that, because this is where the incline used to be, there has never been an avenue there. He added that, with the exception of this area, one can go from First Street to Skyline Parkway via steps. Additionally, Mr. Doffin stated that with the step avenues in this area, it is much safer for walkers to use steps than walk in the street during the winter.

Councilor Prettner Solon stated that she has talked to the community development and housing division about this and they felt that this would qualify for funding next year.

To various councilors' requests, Administrative Assistant Hartl stated that he would see if there was a funding source to address this concern this year.

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Peggy Marrin, speaking for the Duluth Preservation Alliance, noted that her organization is surveying individuals that are running for mayor, city council and school board offices to determine their viewpoints on issues of concern to her organization.

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

Resolution 99-0633, by Councilor Gilbert, awarding contract to Ulland Brothers, Inc., for a 16 inch water main in Basswood Avenue and Myrtle Street, in the amount of \$521,550, was introduced for discussion.

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

- - -

Resolution 99-0631, by Councilor Swapinski, awarding contract to Duluth Superior Erection, Inc., for 1999 citywide sidewalk repairs program, in the amount of \$118,000, was introduced for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

discussion.

Councilor Swapinski moved to table the resolution, as per the request of the administration, which motion was seconded and unanimously carried.

- - -

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

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement an amendment to supplemental agreement with city of Duluth Supervisory Association; said agreement to contain the terms and conditions and be in substantially the same form as the contract on file with the city clerk as Public Document No. 99-0809-14.

Resolution 99-0612 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

<u>PROJECT</u>	<u>CONTRACT #</u>	<u>ASSESSABLE</u>
1998 sidewalk repair and replacement	5312	\$75,999.25
Bellis sanitary sewer	7034	18,090.99
Keene Avenue water and gas mains	1196031 water	10,368.67
	1196032 gas	2,657.10

Resolution 99-0618 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 99-0712-03(a), which is levied to defray in full the expense of solid waste collecting during the period of March 1, 1998, to June 1, 1999, for which the licensed collector has not been reimbursed as provided for in Chapter 24 of the Duluth City Code, is hereby confirmed.

Resolution 99-0621 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor license, subject to departmental approvals, with any specific restrictions:

Lyric Block Development Corporation (Porters/Sneakers/Greenery), 200 West First Street, for August 13 and 14, 1999, with the music ceasing at 12:30 a.m. and the serving ceasing at 1:00 a.m.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0616 was unanimously adopted.
Approved August 9, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of a temporary on sale intoxicating liquor license to the following licensee, with a \$200 application fee, subject to department approvals with any specific restrictions, and further subject to approval of the liquor control commissioner:

Park Point Community Club, 3026 Minnesota Avenue, for August 20, 1999, with Andrea Zabloski, manager.

Resolution 99-0617 was unanimously adopted.
Approved August 9, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that pursuant to Minnesota Statutes 204B.16, the following locations are designated as polling places for the September 14, 1999, municipal, school board and special state legislative primary election; and November 2, 1999, for the municipal, school board and special state legislative 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	45th Avenue East and Colorado
5. Lakeview Covenant Church (lower level)	1001 Jean Duluth Road
6. Woodland Community Club	3211 Allendale Avenue
7. Woodland Community Club	3211 Allendale Avenue
8. Glen Avon Presbyterian Church (Fellowship Hall)	2105 Woodland Avenue
9. Duluth Congregational Church (lower level)	3833 East Superior Street
10. Mt. Olive Lutheran Church (lower level)	2010 East Superior Street
11. Pilgrim Congregational Church (lower level)	2310 East Fourth Street
12. Woodland Middle School (auditorium)	Clover and Eighth Street
13. U.M.D. Kirby Student Center (garden room)	10 University Drive
14. Edison School (gym)	Kenwood Avenue and Maryland Avenue
15. Chester Park United Methodist Church (lower level)	819 North 18th Avenue East
16. Prince of Peace Fellowship Church	1830 East First Street
17. United Baptist Church (lower level)	830 East First Street
18. Trinity Lutheran Church (avenue entrance)	1108 East Eighth Street
19. Trinity Lutheran Church (avenue entrance)	1108 East Eighth Street
20. Peace Church (Tenth Avenue entrance)	1015 East 11th Street
21. First United Methodist Church (Lakeview social hall)	230 East Skyline Parkway
22. Central Hillside Community Center	12 East Fourth Street
23. Rainbow Senior Center (auditorium)	211 North Third Avenue East

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

24. Duluth Public Library (green room)	520 West Superior Street
25. Lafayette Square (upper level)	3026 Minnesota Avenue
26. St. Peter's Catholic Church (lower level)	818 West Third Street
27. Duluth Heights Community Club	33 West Mulberry Street
28. West End Senior Center (lower level)	2014 West Third Street
29. Temple Baptist Church (lower level)	2202 West Third Street
30. Piedmont Elementary School (gym - rear entrance)	2827 Chambersburg Avenue
31. St. Lawrence Church	2410 Morris Thomas Road
32. Harrison Community Club	3002 West Third Street
33. Lutheran Church of Christ the King (alley entrance)	4219 Grand Avenue
34. Faith Haven (recreation room)	4901 Grand Avenue
35. Elim Lutheran Church (social hall)	6101 Cody Street
36. Irving Recreation Center	20 South 57th Avenue West
37. Bethany Baptist Church (social hall)	6700 Grand Avenue
38. Bayview Heights School (gym)	8702 Vinland Street
39. USDA Forest Service	8901 Grand Avenue Place
40. Goodfellowship Community Center (warming area)	1242-88th Avenue West
41. Stowe School (gym)	715 - 101st Avenue West
42. Fond du Lac Recreation Center	131st Avenue West and Highway 23

BE IT FURTHER RESOLVED, that under the authority of Ordinance 8728, that an absentee ballot board shall be in effect and utilized as allowed for under Minnesota Statutes, for the September 14, 1999, and November 2, 1999, elections.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to establish and post temporary handicapped parking zones for the September 14, 1999, and November 2, 1999, elections.

BE IT FURTHER RESOLVED, that the city agrees to indemnify and hold harmless any organization allowing the city to use its building for a polling place from any claims or damages for bodily injury or property damage that are not covered by the insurance of the property owner or property operator, and arise out of the claimants' activities in the polling place for the purpose of voting, but subject to municipal liability limits contained in state law.

Resolution 99-0636 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that pursuant to Minnesota Statutes 204B.21, the following persons are hereby appointed as election judges in the respective precincts for the municipal, school board and special state legislative primary election on September 14, 1999, and the municipal, school board and special state legislative general election on November 2, 1999, as listed in Public Document No. 99-0809-15.

RESOLVED FURTHER, that pursuant to Minnesota Statute, 204B.31(d), election judges shall be compensated at the rate of \$6 per hour and chairman election judges shall be also compensated \$15 for election day hours. In addition, election judges carrying supply returns shall be compensated for mileage at the rate of \$.31 per mile; payable from General Fund 015-1512-5441.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0637 was unanimously adopted.
Approved August 9, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

TREE COMMISSION

Janet V. Corica for a term expiring August 31, 2002.

Resolution 99-0623 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

WATER AND GAS SERVICE HEARING BOARD

Richard J. Andree and Peter Scott Downs for terms expiring September 1, 2002.

Resolution 99-0624 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth did, on June 10, 1996, approve Resolution 96-0525 and did enter into a grant agreement (City Contract No. 17704) with the Minnesota pollution control agency for a clean water partnership grant to conduct the Miller Creek watershed preservation and restoration project; and

WHEREAS, the city of Duluth and the Minnesota pollution control agency wish to continue that agreement to provide for the continuation of the project to August 4, 2000.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into the continuation grant agreement, a copy of which is on file in the office of the city clerk as Public Document No. 99-0809-16 with the Minnesota pollution control agency to continue conducting the Miller Creek watershed preservation and restoration project.

Resolution 99-0613 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

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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).

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby designate Spirit Valley Citizens' Neighborhood Development Association (SVCNDA) and Neighborhood Housing Services of Duluth, Inc. (NHS), as CHDOs.

Resolution 99-0614 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved August 9, 1999
 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 the copy on file in the office of the city clerk as Public Document No. 99-0809-17 with HUD relating to the loan guarantee assistance under Section 108 of the Housing and Community Development Act of 1974 (the Section 108 program) in the principal amount of \$1,000,000.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute additional documents and take further actions as required to accomplish the Section 108 program.

Resolution 99-0620 was unanimously adopted.

Approved August 9, 1999
 GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth established certain 1995, 1996, 1997, 1998 and 1999 CDBG accounts; and

WHEREAS, the citywide citizens advisory committee (CCAC) for the CDBG program passed a resolution recommending funding changes as set forth below; and

WHEREAS, the CCAC held a public hearing and comment period in accordance with the citizen participation plan for the substantial amendment to the 1999 annual consolidated action plan.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund transfers in the Federal Program Fund 262 - 1995, 1996, 1997, 1998 and 1999 HUD-funded CDBG accounts as set forth below:

1995

<u>Project #</u>		<u>Original Amt</u>	<u>New Amt</u>	<u>Change</u>
6354	West Duluth hsg - SVCNDA	\$235,000	\$231,541	(\$ 3,459)

1996

<u>Project #</u>		<u>Original Amt</u>	<u>New Amt</u>	<u>Change</u>
6931	Depot arts	\$ 5,000	\$ 4,225	(\$ 775)
6935	Contingency	\$ 8,689	\$ 14,000	\$ 5,341

1997

<u>Project #</u>		<u>Original Amt</u>	<u>New Amt</u>	<u>Change</u>
6014	C. Hills. mid-block lighting	\$ 15,000	\$ 4,000	(\$11,000)
6015	Portland Sq. tree planting	\$ 10,000	\$ 9,250	(\$ 750)

1998

<u>Project #</u>		<u>Original Amt</u>	<u>New Amt</u>	<u>Change</u>
6113	Fifth Avenue West stairs	\$ 50,000	\$ 46,295	(\$ 3,705)

1999

<u>Project #</u>		<u>Original Amt</u>	<u>New Amt</u>	<u>Change</u>
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

6223	Happy Hot Spas comm. improv.	\$ 32,000	\$ 0	(\$32,000)
6207	Fourth Street streetscape	\$ 33,000	\$ 72,174	\$39,174
6213	West Duluth parks	\$ 71,500	\$ 78,674	\$ 7,174

Resolution 99-0626 was unanimously adopted.
 Approved August 9, 1999
 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 the following tax forfeited parcel now withheld from sale in conservation:

<u>File #</u>	<u>Legal Description</u>	<u>Location</u>
99-0627	9-1410-17, Block 42 and Lots 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100	Duluth Heights First Division Hillside) (10-860-6880, 6960, 7330(p))

Resolution 99-0627 was unanimously adopted.
 Approved August 9, 1999
 GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into amendments, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 99-0809-18 to the contracts listed below, extending the term of each agreement for the period of time stated below at no change in project cost:

City Contract Number 17998 - Lester Park/Lakeside Youth Coalition and Family Services Collaborative - youth intervention and prevention program - 18 month extension.

City Contract Number - Woodland Amateur Hockey Association - parking lot at Woodland - six month extension.

Resolution 99-0628 was unanimously adopted.
 Approved August 9, 1999
 GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that Resolution 98-0994 to Lakehead Electric, Inc., for installation of the Fourth Street lighting from Sixth Avenue East to 14th Avenue East, be amended to increase the amount by \$123,617 for a new total of \$306,469, \$72,174 payable out of Community Development Fund 262, Dept./Agency 622, Object 6207; \$50,000 payable out of Community Development Fund 262, Dept./Agency 622, Object 2020; and \$1,443 payable out of Community Development Fund 262, Dept./Agency 621, Object 6110.

BE IT FURTHER RESOLVED, that this resolution also authorizes the acceptance of \$50,000 from Hillside Business Association to offset a portion of this cost.

Resolution 99-0629 was unanimously adopted.
 Approved August 9, 1999
 GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to accept \$521,907 in Job Training Partnership Act funds from the Minnesota department of economic security in accordance with City Contract No. 18443, Resolution No. 99-0407, passed May 24, 1999. Said monies will be used to provide services under the Job Training Partnership Act as defined in the program year 1999-00 local plan from July 1, 1999, through June 30, 2000. Funds received will be deposited in Fund No. 268, Budget Items 6226 (\$219,381); 6227 (\$31,668); 6228 (\$12,941); 6231 (\$2,965); 6232(\$254,942); and 6235 (\$8,041).

Resolution 99-0603 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with the Minnesota department of economic security to accept \$10,647 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, 1999, through June 30, 2000. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 99-0809-19.

FURTHER RESOLVED, that monies received under this grant shall be deposited in Fund 268, Budget Item 6229.

Resolution 99-0606 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to accept on behalf of the city of Duluth, pursuant to the Laws of Minnesota, 1967, Chapter 374, \$104,385 from the Minnesota department of economic security to operate the Title V senior community service employment program from July 1, 1999, through June 30, 2000. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 99-0809-20.

FURTHER RESOLVED, that amounts received will be deposited in Fund No. 271, Budget Item No. 6329.

Resolution 99-0607 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the city of Duluth hereby accepts and agrees to abide by the terms of the temporary construction permit filed as Public Document No. 99-0809-21 from the state of Minnesota department of transportation authorizing the city to use certain state lands for construction purposes in the construction of the realignment of Michigan Street in the Lincoln Park business district.

Resolution 99-0608 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

BY COUNCILOR FENA:

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. 99-0809-22, with the Minnesota department of economic security to provide services under the federal and state welfare to work programs to be defined in the Program Years 1999-01 welfare to work modification to the local plan for employment and training. Agreement dates shall run from July 1, 1999, through June 30, 2001, and will be for an amount up to the amount of funding provided by said department for said programs. Program funds will be accepted upon receipt of notice of funds available.

Resolution 99-0615 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement between the Minnesota department of transportation, the city of Duluth, the city of Hermantown and St. Louis County for operation and maintenance of traffic control signals on Trunk Highway No. 53/Trunk Highway No. 194 (Miller Trunk Highway) at County State Aid Highway No. 17 (Stebner Road) - Stebner Road, on Trunk Highway No. 194 at County State Aid Highway No. 13 (Midway Road), on Trunk Highway No. 2 at County State Aid Highway No. 14 (Boundary Avenue), on Trunk Highway No. 53 (Piedmont Avenue) at Trunk Highway No. 35 North Bound Ramp (22nd Avenue West); on Trunk Highway No. 53/Trunk Highway No. 194 (Miller Trunk Highway) at County State Aid Highway No. 48 (Ugstad Road) - Ugstad Road, on Trunk Highway No. 53 at County State Aid Highway No. 13 (Midway Road), and on Highway No. 2 at County State Aid Highway No. 13 (Midway Road) in Duluth and Hermantown, St. Louis County, Minnesota, said agreement on file with the city clerk as Public Document No. 99-0809-23.

Resolution 99-0619 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Superior Seven Mile Creek Landfill be and hereby is awarded a five year contract for furnishing boiled ash landfill disposal and hauling fees for the Steam District #1 in accordance with specifications on its low specification bid of \$24.15 per ton for an estimated annual total of \$54,300, terms net 30, FOB disposal sites, payable out of Steam District #1 Fund 540, Dept./Agency 920, Organization 1440, Object 5388.

BE IT FURTHER RESOLVED, that this contract will be adjusted after three years subject to the consumer price index for all urban consumers.

Resolution 99-0635 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

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. 99-0809-24 with Swan & Associates, Inc., for technical assistance services related to the demolition of buildings

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

in Lincoln Park as part of the Michigan Street relocation project in the amount of not to exceed \$12,000, payable from Permanent Improvement Fund 411-035-2165-5303.

Resolution 99-0610 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Bachman's, Inc., be and hereby are awarded a contract for furnishing and delivering 486 shade trees of different species for routine boulevard planting and street improvement program for the city forestry division and engineering division in accordance with specifications on its low specification bid of \$53,043.16, terms net 30, FOB shipping point, payable out of street improvement program and general funds.

Resolution 99-0630 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete design engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for construction phase for the Bayhill Drive street improvement between East Spirit Cove Drive and Pulaski Street; and

WHEREAS, R.R.E.M./M.S.A. Division has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with R.R.E.M./M.S.A. Division to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$15,150, will be payable from the Special Assessment Fund 810, Dept./Agency 038, Organization 5321, Object 5530.

Resolution 99-0632 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 97-0231 to L.H.B. Engineers and Architects to provide professional engineering services for additional design services, construction engineering services and environmental engineering services for Michigan Street realignment in Lincoln Park business area, be amended to increase the amount by \$227,535 for an estimated new total of \$321,021, payable out of 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 99-0634 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to apply for and accept grant monies from the Minnesota department of public safety, office of traffic safety, to reimburse the police depart-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

ment's police overtime expenditures related to the safe & sober grant program; all revenue to be deposited into General Fund 100, Dept. 200, Org. 1620, Revenue Source 4253.

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

Resolution 99-0566 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zone is hereby established:

Both sides of Birch Street from 100 feet south of Garfield Avenue to 400 feet north of Garfield Avenue.

Resolution 99-0622 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

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The following resolutions were also considered:

BY COUNCILOR RAPAICH:

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

SPIRIT MOUNTAIN RECREATION AREA AUTHORITY

Sidney R. Mason for a term expiring June 30, 2002, replacing Wayne Brandt.

Resolution 99-0611 was unanimously adopted.

Approved August 9, 1999

GARY L. DOTY, Mayor

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Resolution 99-0625, by Councilor Hales, to establish metered angle parking on the north side of East Superior Street Between Lake Avenue And First Avenue East, was introduced for discussion.

Councilor Hogg noted his concerns for what he felt will be a choke point on Superior Street with these eight proposed parking spots and two curvatures into the street, in that, when traffic is backed up with six vehicles, there will be blockage to right turns, left turns and also through traffic going west. He felt that he cannot support this, noting the short notice to discuss options, but would support a simple drop off area.

To Councilor Hales' inquiry, Mr. Hartl stated that the engineering staff feels that this will not create any additional problems that are not there already.

Resolution 99-0625 failed upon the following vote (Public Document No. 99-0809-25):

Yeas: Councilors Hales, Rapaich and President Keenan -- 3

Nays: Councilors Fena, Gilbert, Hogg, Prettnner Solon, and Swapinski -- 5

Absent: Councilor Edwards -- 1

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR PRETTNER SOLON

99-022 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO THE UNIVERSITY

OF MINNESOTA DULUTH FOR THE INSTALLATION OF FIBER OPTIC CABLES UNDER ST. MARIE STREET AT THE INTERSECTION OF EAST UNIVERSITY CIRCLE.

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The following entitled ordinances were read for the second time:

BY COUNCILORS PRETTNER SOLON AND HALES

99-021 (9419) - AN ORDINANCE AMENDING SECTION 26-10 OF THE CITY CODE RELATING TO SPEED REGULATIONS IN THE DULUTH SHIP CANAL.

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

Karen Lewis voiced her support for this ordinance, noting that youth on water scooters are endangering the safety of swimmers and canoeists.

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

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BY COUNCILOR HALES

99-018 (9420) - AN ORDINANCE AMENDING CHAPTER 6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE REGULATION OF ANIMALS.

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

Tom Allnew voiced his objection to the section that requires an additional permit if you own over three dogs or cats. He felt that this would be an infringement on one's civil liberties by the government and that all permits are unconstitutional.

Mary Stromdahl, chairperson of animal humane board, stated that there is not a limit to how many animals one can have, only that if you have over three dogs and three cats, then there is a permit required. She stated that this is a tool for shelter personnel to address the situations of masses of animals in homes. Ms. Stromdahl added that there are situations where there are over 50 animals in a home, where there is stench, animal extract, tumors hanging to the ground and other ailments.

Shannon Adams voiced support for the ordinance, noting the number of animals that are listed in the paper daily, and for owners that continually breed their animals to take responsibility for breeding animals that are not put in good homes or spayed or neutered.

Councilor Hales moved to amend the ordinance by deleting sections 6-61 through 6-64, which motion was seconded and discussed.

Councilor Hales stated that this removes the section that relates to trapping of animals and the sale of trapping devices. She stated that the trappers association wishes to work with the animal humane board to come to a reasonable compromise that both can live with.

The amendment unanimously carried.

President Keenan moved to amend the ordinance by deleting, in sections 39(a) and (b) the references to the maximum the number of animals, which motion was seconded and discussed.

Councilor Rapaich felt that with rights there are responsibilities, and that it would be a mistake to eliminate these sections.

Councilor Prettner Solon felt that there are times where government involvement is good and that this is the time where community standards can be established.

Councilor Hogg felt that the sections affected by the amendment are needed to make this a comprehensive, effective ordinance.

The amendment failed upon the following vote:

Yeas: President Keenan -- 1

Nays: Councilors Fena, Gilbert, Hales, Hogg, Prettner Solon, Rapaich and Swapinski -- 7

Absent: Councilor Edwards -- 1

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

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The meeting was adjourned at 8:50 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9419

BY COUNCILORS PRETTNER SOLON AND HALES:

AN ORDINANCE AMENDING SECTION 26-10 OF THE CITY CODE RELATING TO SPEED REGULATIONS IN THE DULUTH SHIP CANAL.

The city of Duluth does ordain:

Section 1. That Section 26-10 of the Duluth City Code, 1959, is hereby amended to read as follows:

Sec. 26-10. Speed regulations--in Duluth ship canal.

No person shall operate a watercraft at greater than slow-no wake speed in the entrance to the city harbor, commonly called the Duluth Ship Canal. Slow-no wake speed is the minimum speed necessary to maintain steerage, but in no case greater than five miles per hour.

The provisions of this Section shall not apply to:

(a) Emergency, enforcement or resource management personnel when acting in the performance of their duties;

(b) To any watercraft when it becomes necessary for such watercraft to exceed five miles per hour:

(1) Due to water or wind conditions which affect safety and steerage; or

(2) To avoid a potential collision.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 19, 1999)

Councilors Prettnner Solon and Hales moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fena, Gilbert, Hales, Hogg, Prettnner Solon, Rapaich, Swapinski and President Keenan -- 8

Nays: None -- 0

Absent: Councilor Edwards -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed August 9, 1999

Approved August 9, 1999

GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9420

BY COUNCILOR HALES:

AN ORDINANCE AMENDING CHAPTER 6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE REGULATION OF ANIMALS.

The city of Duluth does ordain:

Section 1. That Chapter 6 of the Duluth City Code, 1959, as amended, is amended to read as follows:

CHAPTER 6.
ANIMALS AND FOWL.

Article I. Animal Control Officers and Impoundment of Animals.

Sec. 6-1. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

(a) Animal. Includes all mammals, reptiles and fowl kept, harbored, controlled or owned by a person or persons residing in Duluth or business or licensee doing business in Duluth;

(b) Animal control authority. The Duluth animal shelter's lead animal control officer or designee;

(c) Animal control officer. Any officer employed by the city either part-time or full-time, temporary or permanent, which is responsible for animal control enforcement within the city;

(d) Cat. Includes any male or female domesticated feline animal;

(e) Dog. Includes any male or female animal of the dog kind;

(f) Owner. The license holder or any other person or persons, partnership, including limited partnership, nonprofit corporation, firm, association or corporation owning, keeping or harboring an animal. Any person keeping or harboring an animal for five consecutive days shall, for the purposes of this Chapter, be deemed to be an owner thereof.

Sec. 6-2. Animal control officers to have powers of police officers.

In addition to the other duties prescribed in this Chapter, the animal control officers shall have the powers and perform the duties of police officers.

Sec. 6-3. Impoundment--authorized; redemption fee of certain dogs.

(a) Police officers and animal control officers shall have the authority to seize, take up and impound all animals:

(1) Which may be found running at large contrary to the provisions of this Chapter. It shall also be the duty of the animal control officers to see that animals required to be licensed are in fact so licensed;

(2) Which are found to be in an environment or subject to conditions which would, to a reasonable person, evidence that the animal's health, safety or well being is endangered due to adverse weather conditions or in other circumstances set forth in Article VI of this Chapter;

(3) Which constitute a nuisance under this Chapter;

(4) Which are found to be in circumstances, such as the animal exhibiting fresh wounds, scarring, or is observed in a fight, or other indications which, to a reasonable person, evidence that animal has been or will be used, trained or encouraged to fight with another animal, or the owner of such animal has in custody or possession any training apparatus, paraphernalia or drugs used to prepare such animal to be fought with another animal;

(b) Any person may seize, impound or restrain any animal which is found running at large in the city of Duluth and hold such animal for the animal control officer or deliver such animal to the city animal shelter;

(c) The animal control officer shall hold such animals until they are claimed by their owners or until disposed of in accordance with Section 6-4 of this Article. All unclaimed animals shall be held for not less than five business days before being disposed of by the animal control authority;

(d) Any animal impounded under the provisions of this Article shall be released only upon the payment of the expenses of taking and keeping the animal. If the animal is unlicensed, in addition to the impounding and boarding fee, the animal shall not be released without payment of the prescribed license fee. The city council shall set the amount of such license fee by resolution with the recommendation of the animal humane board.

However, if it is the opinion of a licensed veterinarian that a critically injured or diseased animal will unnecessarily suffer, such animal may be humanely euthanized prior to the five day holding period even though attempts to locate or notify the owner have been unsuccessful. The owner shall be responsible for the cost of euthanization and/or the reasonable costs of the care and treatment;

(e) The animal control officer shall provide necessary and humane care for all animals impounded and the expenses thereof shall be paid by the owner or the person claiming the same.

Sec. 6-4. Disposal after five business days.

After the waiting period prescribed by Section 6-3, the animal control authority may make provision for the humane euthanasia or adoption of such animals which remain unclaimed. Other animals for which the waiting period is not applicable may be disposed of immediately by the animal control authority. The city council may, from time to time, by resolution, set such fees for animal control services as may be necessary to defray the costs of operating the city animal shelter. Such fees may include, but are not limited to disposal fees, placement fees and service calls within and without the city. The city council shall set the amount of such fees by resolution with the recommendation of the animal humane board. All such fees shall be collected by the animal control authority and shall be turned in to the city treasury.

Sec. 6-5. Dogs and cats adopted; spaying or neutering required.

All dogs and cats placed for adoption by the city animal shelter or other non-profit organizations such as: animal humane societies, animal placement agencies or animal rescue groups, must be spayed or neutered prior to the adopting party taking possession of the animal. In addition, every adopted animal must be examined by a licensed veterinarian and vaccinated against rabies. Animals known to be infected with a contagious disease or condition shall not be placed for adoption until the animal is in good health and no longer contagious.

(a) The animal control authority is authorized to establish a cooperative program to perform sterilizations and vaccinations pursuant to this Section before the adopting party takes custody of an animal;

(b) Nothing in this Section shall be construed to authorize the animal control authority to sterilize an animal that has been reclaimed by its owner, or for which the period to reclaim as owner has not expired;

(c) Upon review of the adoption application the animal control authority is authorized to deny an adopting party an animal if the adopting party demonstrated an unwillingness or inability to abide by terms of the adoption agreement and/or Chapter 6 of the Duluth City Code;

(d) At the close of each adoption of an animal, the animal adoption organization shall give the adopting party a certificate containing a description of the animal adopted, health records for the animal, the amount of the adoption fee and the names and addresses of both the adoption organization and adopting party. Copies of the above adoption information must be kept for a period of two years and open for inspection by the animal control authority.

Sec. 6-6. Obstructing animal control officer; breaking into public animal shelter.

(a) No person shall intentionally obstruct, hinder, prevent or interfere with an animal control officer or shelter volunteer while the officer or volunteer is engaged in the performance of animal control duties;

(b) No person shall break open or in any manner, directly or indirectly, assist in breaking open any public animal shelter in the city, release or attempt to release therefrom any animal impounded;

(c) No person except for the animal control authority shall release or cause to be released any animal impounded at the Duluth animal shelter.

Secs. 6-7 through 6-10. Reserved.

Article II. Licensing of Animals.

Sec. 6-11. License--required.

No person within the city shall own or possess any dog or cat over eight weeks of age without obtaining a license therefor and having complied with the provisions set forth in this Article.

Sec. 6-12. Fees.

(a) Any person owning or possessing a dog or cat shall pay a yearly license fee for each such dog or cat. The city council may, from time to time, by resolution, set such license fees. All such fees shall be set by the council with the recommendation of the animal humane board;

(b) No license shall be required for dogs or cats brought into the city for the purpose of participating in any shows. Any properly identified service dog which aids persons who are totally or partially blind or deaf or have physical or sensory disabilities shall be issued a dog license at no charge upon providing proof of certification of training as a service dog.

Sec. 6-13. License application.

(a) Before the first day of January of each year, it shall be the duty of the city clerk to send to all dog or cat owners who hold a valid license a notice that licenses required herein are due on January first following and informing such persons of the penalties for failure to procure such license. Dog and cat licenses shall be issued on a yearly basis. Each license shall be in effect beginning on the first day of January and expiring on the last day of December of that calendar year. All dog and cat licenses issued after the first day of January and before the last day of December shall expire on the last day of December of that same calendar year. License fees for new residents owning or harboring a cat or dog are due and payable when such owner begins residency in Duluth;

(b) When application is made for a license on a spayed female, or a neutered male, said application shall require the owner to supply the name, age, breed, sex, color and markings, and present a statement from a qualified veterinarian to the effect that the operation was performed and giving the date thereof;

(c) Owners or persons claiming an impounded and unlicensed cat or dog shall complete a license application and purchase a cat or dog license from the Duluth animal shelter prior to the release of the animal;

(d) When the owner has been convicted of a violation of Section 6-93(b) (dangerous dog) or M.S.A. 609.226 and/or M.S.A. 609.205(4), relative to the dog sought to be licensed, the application shall require proof of public liability insurance in the minimum of \$300,000 and proof of microchip identification as required in Section 6-99 of this Chapter.

Sec. 6-14. Tag--duplicates, transferability.

When a license is issued under the provisions of this Article, the city clerk or animal control authority shall deliver to the person securing the same a metal tag, bearing the number of the license and the year thereof. The shape and style of such tag shall be changed each year. Duplicate metal tags, in case of loss, may be issued by the city clerk. The city council shall, by resolution, set the fee amount to obtain a duplicate metal tag. No tag shall be transferred from one dog or cat to another.

Sec. 6-15. Tag attached to collar; removal of collar or tag prohibited.

No person owning, possessing or harboring any dog or cat shall permit the same to be outside its owner's dwelling without a substantial collar of leather or other durable material to which collar shall be securely attached the metal license tag described in Section 6-14. No person shall remove the collar or tag from any dog or cat without the consent of the person to whom the license for such dog or cat is issued.

Secs. 6-16 through 6-20. Reserved.

Article III. Rabies Control.

Sec. 6-21. Definitions.

For the purposes of this Chapter, the following words and phrases shall mean:

(a) Ferret. Domestic ferrets as opposed to nondomesticated found in the wild;

(b) Rabies control authority. Refers to and means any duly authorized person or persons responsible for the enforcement of this Article in accordance with the directions of the St. Louis County health department;

(c) Vaccination against rabies. Refers to and means the inoculation of a dog or cat with a rabies vaccine. Such vaccination shall be performed by a veterinarian duly licensed to practice veterinary medicine.

Sec. 6-22. Vaccination requirements.

(a) Every dog, cat or ferret, four months of age and older, shall be vaccinated against rabies;

(b) Every dog, cat or ferret which is not vaccinated at the time of its acquisition or transportation into the city shall be vaccinated within 30 days of acquisition or arrival, whichever is applicable, unless such dog, cat or ferret is under four months of age;

(c) Every dog, cat or ferret shall be revaccinated thereafter in accordance with the current "Compendium of Animal Rabies Vaccines, Part II: Vaccines Marketed in U.S. and NASPHV recommendations," prepared by the National

Association of State Public Health Veterinarians, Inc., incorporated herein by reference and on file in the office of the city clerk and/or Duluth animal shelter.

Sec. 6-23. Vaccination identification.

A metal or durable plastic current rabies vaccination tag, issued by the attending veterinarian, shall be securely attached to the collar or harness of the dog, cat or ferret by the owner. Whenever the dog, cat or ferret is out of doors, whether on or off the owner's premises, the collar or harness with the vaccination tag must be worn. In addition, the owner may be requested to provide a current certificate of rabies vaccination issued by the veterinarian.

Sec. 6-24. Vaccination cost.

The cost of rabies vaccination shall be borne by the owner of the dog, cat or ferret, whichever is applicable.

Sec. 6-25. Exemption from vaccination requirements; transient dogs, cats and ferrets.

The provisions of this Chapter with respect to vaccination shall not apply to any dog, cat or ferret temporarily remaining within the city of Duluth for less than 30 days, or to any dog, cat or ferret brought into the city for field trial or show purposes. Such dogs, cats or ferrets shall be kept under strict supervision by the owner. However, it shall be unlawful to bring any dog, cat or ferret into the city of Duluth under circumstances which are not in compliance with the animal health laws and import and exhibition regulations of the state of Minnesota which are applicable to dogs or cats.

Sec. 6-26. Handling of dogs, cats and ferrets bitten by rabid animals.

The following rules shall apply in the case of dogs, cats or ferrets known to have been bitten by rabid animals. For the purposes of this Section, any bat, skunk, civet cat, raccoon or fox that bites a dog or cat shall be deemed a rabid animal, unless proven otherwise.

(a) If the bitten (exposed) dog, cat or ferret has not been vaccinated in accordance with the provisions of Section 6-22, said bitten exposed dog, cat or ferret shall be euthanized immediately. If the owner is unwilling to euthanize the bitten (exposed) dog, cat or ferret, said animal shall be placed in strict isolation in a veterinary hospital under veterinary supervision for a minimum period of six months. Before release of the dog, cat or ferret to its owner, it shall be vaccinated against rabies one month prior to its release at the owner's expense;

(b) If the bitten (exposed) dog, cat or ferret has been vaccinated in accordance with the provisions of Section 6-22, said bitten dog, cat or ferret shall be revaccinated immediately and shall be placed in strict isolation in a veterinary hospital under veterinary supervision for a minimum period of 40 days following revaccination. If the bitten (exposed) dog, cat or ferret is not revaccinated immediately, it shall be placed in strict isolation in a veterinary hospital under veterinary supervision for a minimum period of six months.

Sec. 6-27. Impoundment of dogs, cats and ferrets without valid rabies vaccination tags.

Any dog, cat or ferret found off the owner's premises and not wearing a valid rabies vaccination tag may be impounded. All impounded dogs, cats or ferrets shall be given proper care and maintenance. Impoundment of all animals shall be in accordance with the provisions of this Chapter. Each dog, cat or ferret impounded

pursuant to this Section shall be kept at least five days after the impoundment thereof, unless conditionally reclaimed by its owner as herein provided. Any dog, cat or ferret which is impounded pursuant to this Section may be conditionally reclaimed by its owner by payment of the fees prescribed in this Chapter and by compliance with the rabies vaccination requirements of this Chapter within 72 hours of release. Upon claiming any dog, cat or ferret which has not previously been vaccinated, the owner shall make a cash deposit with the animal control authority, which shall be refunded upon the owner filing proof that the dog, cat or ferret has been vaccinated within 72 hours of release; otherwise the cash deposit shall be forfeited to the city. The city council may, from time to time, by resolution, set the amount of the cash deposit. All cash deposit amounts shall be set by the city council with the recommendation of the animal humane board.

If the owner of a dog, cat or ferret impounded because of the absence of a valid rabies vaccination tag claims that his or her animal has been vaccinated, such owner may reclaim his or her dog, cat or ferret upon production of proof of vaccination, payment of all impounding fees, and acquisition of a valid rabies vaccination tag. If a dog, cat or ferret impounded pursuant to this Section is unclaimed by its owner at the end of five days, such animal may be disposed of in accordance with provisions of Section 6-4 of the this Chapter.

Sec. 6-28. Investigation.

(a) An animal control officer, rabies control authority or any police officer is authorized to enter any yard, whether or not enclosed, or any open kennel in which a dog, cat or ferret is kept or harbored for the purpose of determining whether such dog, cat or ferret is wearing a valid rabies vaccination tag;

(b) An animal control officer, rabies control authority or any police officer, having reasonable cause to believe a health hazard exists by virtue of an owner's noncompliance with the provisions of this Article, is authorized to apply to the appropriate authority as otherwise permitted by law for a warrant empowering him/her to enter the dwelling, residence or place of abode of the owner of a dog, cat or ferret and to demand the exhibition by the owner of such dog, cat or ferret and/or rabies vaccination tag and/or rabies vaccination certificate.

Sec. 6-29. Impound fees.

Impoundment fees shall be borne by the owner as provided in Section 6-3 of this Chapter.

Sec. 6-30. Biting; quarantine.

When any person has been bitten by a dog, cat or ferret, the owner or custodian of the dog, cat or ferret, having been so notified, shall immediately quarantine the dog, cat or ferret at owner's home or other suitable place of confinement within the city or such other place as directed by the animal control authority or rabies control authority. If a dog, cat or ferret which has bitten is running at large and has been apprehended by the animal control officer, and if, upon apprehension, the dog, cat or ferret not wearing a rabies vaccination tag or other identification which reasonably reveals its ownership, the animal control officer, after consultation with the rabies control authority, may impound the dog, cat or ferret until the quarantine period is completed. If the dog, cat or ferret has not been claimed after five days, the animal control authority, after consulting with the rabies control authority, may either immediately euthanize the dog, cat or ferret and submit

the carcass to the rabies control authority for rabies examination or keep the dog, cat or ferret impounded for the full quarantine period. The period of quarantine shall commence immediately after a person has been bitten and such period shall last for ten consecutive days thereafter. If on or before the tenth day the dog, cat or ferret shows clinical signs suggestive of rabies, the dog, cat or ferret, after consulting with the rabies control authority, may be euthanized and submitted to the rabies control authority for rabies examination. If any of the following animals: skunk, raccoon, fox, coyote, bobcat or bat, bites a human, a dog, a cat, a ferret or any livestock, that animal may, after consulting with the rabies control authority, be euthanized immediately and the carcass may be submitted to the rabies control authority for rabies examination. When other animal species are involved in a biting incident with a human or any other animal, the rabies control authority shall determine whether the animal, based on the prevalence of rabies in the region, is a rabies suspect. Animals deemed to be a rabies suspect by the rabies control authority may be euthanized immediately and the carcass submitted for rabies examination. Animal species including livestock, rodents (squirrels, hamsters, guinea pigs, gerbils, chipmunks, rats and mice) and lagomorphs (rabbits and hares) may be considered rabies suspects on an individual basis. If at the end of the ten day quarantine period the dog, cat or ferret appears to be normal and healthy, the quarantine will be terminated. During the quarantine period the dog, cat or ferret shall be securely confined in a building or in a yard enclosed by a fence so constructed that the dog, cat or ferret cannot get through or over and which will not permit other animals or persons to enter and will prevent the dog, cat or ferret from coming in contact with other animals or persons other than the custodian. Upon request the animal owner or custodian shall make the dog, cat or ferret available to the rabies control authority for inspection at any reasonable time during the quarantine. The dog, cat or ferret shall not be euthanized unless it cannot be safely secured. If the dog, cat or ferret is euthanized, dies, becomes sick or escapes within the quarantine period, the owner, custodian or agent thereof must notify the rabies control authority immediately. When it is necessary to quarantine a dog, cat or ferret under this Chapter, the cost and expense of such quarantine shall be borne by the owner or agent of the owner of the dog, cat or ferret.

Any person exposed to an animal suspected of having rabies shall be referred to the rabies control authority for health recommendations.

Article IV. Keeping of Animals.

Sec. 6-31. Definitions.

For the purposes of this Chapter, the following words shall mean:

(a) Estrus. A periodic state of sexual excitability during which the female animal is willing to mate with the male and is capable of becoming pregnant;

(b) Nuisance. The word nuisance shall mean:

(1) An owner allowing the accumulation of animal feces in an open outside area or inside a structure causing unpleasant, offensive odors to reasonably cause the annoyance of another person or persons;

(2) An animal owner allowing or failing to prevent the animal from continually and/or repeatedly cause the disturbance by loud and frequent or habitual vocalizations;

(3) An animal owner allowing or failing to prevent the animal from continually and/or repeatedly causing damage to property of one other than the owner;

(c) Picket. To secure an animal by means of a chain or metallic cable to a fixed object, thereby confining the animal to a specified area.

Sec. 6-32. Nuisance.

No person shall keep any mammal, fowl, reptile or bees in such a manner as to constitute a nuisance.

Sec. 6-33. Animal noise.

(a) No person shall harbor or keep any dog which, by loud and frequent or habitual barking, yelping or howling shall cause reasonable annoyance of another person or persons;

(b) It shall be unlawful for any person harboring or keeping any animal when that animal creates any noise which is plainly audible to any person, including animal control officers and licensed police officers, at the property line of the building or premises where the animal is being kept and which noise occurs either:

(1) Repeatedly over at least a seven-minute period of time with one minute or less lapse of time between each animal noise during the seven minute period, or

(2) Repeatedly over at least a 14-minute period of time, at an average of at least 12 animal noises per minute;

(c) No person shall harbor or keep any fowl which, by loud and frequent or habitual crowing or clucking shall cause reasonable annoyance of another person or persons;

(d) No person shall harbor or keep any other animal or fowl which by loud and frequent or habitual vocalizations shall cause reasonable annoyance of another person or persons.

Sec. 6-34. Animal interference.

(a) No person shall harbor or keep any animal which shall cause annoyance to people passing upon the streets, sidewalks or other public places in the city of Duluth by physical interference with any such people;

(b) Picketing. No animal shall be picketed so as to be within ten feet of any lot line or public sidewalk.

Sec. 6-35. Trespassing or damage to property by animals prohibited.

(a) No owner or person having charge of any animal shall allow the same to enter or remain upon the property of another person without the consent of that person;

(b) No owner of any animal shall allow the same to commit damage to property of one other than the owner's.

Sec. 6-36. Running at large prohibited.

No person shall suffer or permit any animal owned or controlled by that person to run at large within the city. An animal shall be considered to be at large if:

(a) The animal departs from the private property of the owner or other person caring for that animal and is not under physical control of the owner, a member of the immediate family or other responsible person caring for that animal. If the animal is under control by a leash, the leash must be of suitable strength not

exceeding six feet in length. Persons controlling animals with leash devices capable of extending leash lengths greater than six feet shall retract the leash length so it shall not exceed six feet in length when being approached or approaching within ten feet of other persons and/or other animals;

(b) The animal remains on the private property of the owner or other person caring for that animal and the animal is not effectively contained within a fenced area, or when the animal is on any unfenced area or lot abutting a street, alley, public park, school grounds or public place without being effectively restrained by a chain or metallic cable secured to a fixed object shall be deemed running at large. Invisible (underground electric) fences may be used as a secondary restraint only, and are not an acceptable replacement for a chain, metallic cable or properly fenced in area;

(c) An animal is not in violation of this Section if:

(1) Such animal remains on the private property of the owner or other person caring for that animal and a competent person is outside with the animal and that animal is immediately obedient to that person's command;

(2) Such animal is picketed in accordance with this Chapter;

(3) Such animal is confined in a shipping receptacle or a closed vehicle;

(4) Such animal is actually participating in a bona fide field trial, animal show or exhibition, training school, obedience school or similar activity;

(5) Such animal is police animal engaged in activities by the city;

(6) Such animal is a tracking animal and is being used by or with the permission of the city;

(7) Such animal is a certified service animal serving a disabled person.

Sec. 6-37. Female animal in estrus.

Every female animal in estrus shall be kept confined within a building in such a manner that the animal cannot come in contact with any intact male animal except for proper breeding purposes within the building. The female animal in estrus may be taken from the confined area on a secure leash controlled by a person of sufficient age or into a confined outdoor enclosure within the owner's property in order for the animal to urinate and/or defecate.

Sec. 6-38. Animal litter.

(a) The owner of any animal or any person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of such feces in a sanitary manner;

(b) It is unlawful for any person owning, keeping or harboring an animal to cause said animal to be on property, public or private, not owned or possessed by such person without having in his/her immediate possession a device for the removal of feces and depository for the transfer of animal feces to a receptacle located on property owned or possessed by such person. A device may include a plastic or paper bag which is used to recover animal feces;

(c) It is unlawful for any person in control of, causing or permitting any animal to be on any property, public or private, not owned or possessed by such person to fail to remove feces left by such animal to a proper receptacle located on the property owned or possessed by such person;

(d) For the purposes of this Section, the term public property includes, without limitation, streets, sidewalks, boardwalks, trails, boulevards, playgrounds and parks;

(e) The provisions of this Section shall not apply to the ownership of use of any properly identified service animal which aids persons who are totally or partially blind or deaf or have physical or sensory disabilities, animals when used in police activities by the city, or tracking animals when used by or with the permission of the city.

Sec. 6-39. Maximum number of animals.

(a) No more than three dogs of over the age of four months shall be kept, harbored or maintained within any individual dwelling unit or on any lot or other parcel of property in the city without a maximum dog exception license. The number of dogs permitted above may be increased by obtaining such license issued by the city clerk's office. Such license shall specify any restrictions, limitations, conditions or prohibitions which the animal control authority deems reasonably necessary to protect any person or neighboring use from unsanitary conditions, unreasonable noise or odors, or annoyance, or to protect the public health or safety. Such license may be modified from time to time or revoked by the animal control authority for failure to conform to such restrictions, limitations or prohibitions. Such modification or revocation shall be effective from and after ten days following the mailing of written notice thereof by certified mail to the person or persons keeping or maintaining such dogs;

(b) No more than three cats of over the age of four months shall be kept, harbored or maintained within any individual dwelling unit or on any lot or other parcel of property in the city without such license. The number of cats permitted above may be increased by obtaining a permit issued by the city clerk's office. Such license shall specify any restrictions, limitations, conditions or prohibitions which the animal control authority deems reasonably necessary to protect any person or neighboring use from unsanitary conditions, unreasonable noise or odors, or annoyance, or to protect the public health or safety. Such license may be modified from time to time or revoked by the animal control authority for failure to conform to such restrictions, limitations or prohibitions. Such modification or revocation shall be effective from and after ten days following the mailing of written notice thereof by certified mail to the person or persons keeping or maintaining such cats;

(c) License application. Maximum dog and/or cat exception licenses shall be issued on a yearly basis. Each license shall be in effect beginning on the first day of January and expiring on the last day of December of that calendar year. All such licenses issued after the first day of January and before the last day of December shall expire on the last day of December of that same calendar year. The city council may, from time to time, by resolution, set such license fees. All such fees shall be set by the council with the recommendation of the animal humane board;

(d) Any owner denied a maximum dog and/or cat exception license or having such license revoked may appeal the animal control authority's decision to the animal humane board. The animal humane board will review the decision and may call for a hearing to determine the validity of such license denial and determine what, if any, other course of action to take;

(e) Any owner aggrieved by a decision of the animal humane board may appeal to the city council by filing written notice of said appeal to the city clerk within 15 days after the animal humane board's decision is rendered.

Sec. 6-40. Reserved.

Article V. Animal Humane Board.

Sec. 6-41. Animal humane board--created; composition; appointment of members.

There is hereby created a permanent animal humane board, which shall consist of nine members, to be appointed by the mayor and to be confirmed by the city council.

Sec. 6-42. Terms and compensation of members; chairman; filling of vacancies.

The original members of the animal humane board shall be appointed for the following terms: one shall be appointed for a term of five years, two shall be appointed for four years, two shall be appointed for three years, two shall be appointed for two years, and two shall be appointed for one year. Each appointee shall serve for his respective term and until his respective successor has been appointed and has assumed office. After the expiration of the initial term, each of the members shall be appointed and shall serve for a five year term and until his respective successor has been appointed and has assumed office. The board shall elect one of its members as chairman and shall by rule establish the length of term the chairman shall serve. Members shall serve without compensation.

Upon death or resignation of a board member the mayor shall appoint a person to fill the unexpired term, such appointment being subject to the confirmation of the city council. The term of any member of the board shall be deemed vacant upon failure to attend three consecutive meetings, unless such nonattendance resulted from justifiable cause.

Sec. 6-43. Powers and duties.

The animal humane board of the city shall have the following powers and duties:

(a) To study the needs of the city in the area of animal cruelty and make recommendations for needed legislation;

(b) To effectuate the purposes and policies of articles IV, VI, VII, VIII, IX of this Chapter;

(c) To promote cooperation among all groups towards the accomplishment of the purposes and policies of this Article;

(d) To promote and conduct programs designed to educate and inform the public about the field of animal cruelty prevention and animal preservation;

(e) To conduct studies designed to increase knowledge in the areas of concern;

(f) To make reports of its activities to the city council, as requested by the city council, or as desired by the board;

(g) The animal humane board shall have the power to adopt such rules and regulations not inconsistent with the terms of this Article as the board shall deem necessary for the conduct of its business;

(h) The animal humane board shall be forwarded all complaints on violations of this Article and shall, after a hearing, advise the city attorney of those complaints which, in the judgment of the board, are deemed to be violations of this

Article. Nothing in this Section shall prevent a complaint from being issued before or without the board's advice;

(i) The animal humane board shall have licensing duties as set forth in Article VIII of this Chapter;

(j) The animal humane board shall hear and determine license appeals as set forth in Article VII of this Chapter;

(k) The animal humane board shall hear and determine permit appeals as set forth in Article IV, Section 6-38 of this Chapter;

(l) The animal humane board shall hear and determine appeals regarding humane euthanasia of an animal determined to be dangerous under Article IX. Secs. 6-44 through 6-50. Reserved.

Article VI. Cruelty to Animals; Trapping.

Sec. 6-51. Purpose of article.

It is the purpose and intent of this Article to promote the proper care of all animals within the city of Duluth. Further, it is the intent of this Article that the needs of animals receive attention through the implementation of the provisions of this Article.

Sec. 6-52. Definitions.

For the purposes of this Chapter, the following words and phrases shall mean:

(a) Animal cruelty. Every act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering, or death shall be caused or permitted including failure to provide proper drink, air, space, shelter (appropriate for type/breed), a clean, sanitary and safe living environment, veterinary care, exercise, appropriate grooming, and food in sufficient quantity;

(b) Animal torture. Shall have the same meaning as animal cruelty.

Sec. 6-53. Prohibited acts.

All acts of animal cruelty shall be prohibited including the following:

(a) No person shall overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate or kill any animal or cruelly work any animal when unfit for labor, whether belonging to himself or another;

(b) No person shall deprive any animal of which he has charge or control of necessary food, water or shelter, veterinary care, appropriate grooming, a clean, sanitary, and safe living environment;

(c) No person shall keep any animal in any enclosure without facilities or provisions for adequate exercise and change of air;

(d) No person shall abandon any animal;

(e) No person shall allow any maimed, sick, infirm or disabled animal owned by him or in his control to lie in any street, road or other public place;

(f) No person shall wilfully set on foot, instigate or in any way further any act of cruelty to any animal or animals, or any act tending to produce such cruelty;

(g) No person shall unjustifiably administer any poisonous or noxious drug or substance to any animal, or procure or permit the same to be done, or unjustifiably expose any such drug or substance with intent that the same shall be taken by any animal, whether such animal be the property of himself or another;

(h) No person or organization shall give away any live animal, fowl, reptile, or fish as a prize for or as an inducement to enter any contest, game, or other

competition; as an inducement to enter a place of amusement; or as an incentive to any business agreement whereby the offer was for the purpose of attracting trade.

Sec. 6-54. Collars, leashes, tie outs.

Collars. Collars may not exceed two pounds in weight and must be made of durable material strong enough to hold the dog it is intended for. Collars may not be equipped with any type of prongs on the inside of the collar that may cause injury or discomfort to the animal's neck.

Leashes. Leashes must not exceed six feet in length and may not exceed four pounds in total weight.

Tie outs. Tie outs must be at least three times the length of the animal secured to it and may not exceed ten pounds in total weight. Tie outs must be of durable material, strong enough to hold the animal it is intended for. Any animal secured with a tie out must be so in an area that would not allow the animal to become tangled around objects while allowing access to shelter and water. Tie outs must be placed in such a location as to inhibit the animal secured from reaching a public sidewalk, street or alley. Also, the tie out must not allow the secured animal access to any neighboring property unless written permission has been obtained from the property owner.

Sec. 6-55. Destruction, etc., of nests or shelters prohibited.

No person shall, nor shall the person allow their animal to, injure or destroy any nest, refuge or shelter of any animal, creature, bird or fowl in any public property (including, but not limited to, any public park or public zoological garden) or upon any private property of another within the city or disturb, take or carry away from any such nest, refuge or shelter any egg, newly-hatched bird, fowl or denizen deposited in or making use of such nest, refuge or shelter.

Sec. 6-56. Destruction, etc., of birds and game animals.

(a) It shall be unlawful for any person, at any time, in any manner, to hunt, take, kill or wound any wild birds, any game bird or game animal within the city except as authorized by permit by the Minnesota department of natural resources;

(b) It shall be unlawful for a person owning, harboring or controlling an animal, to allow same animal to hunt, take, kill, wound any wild birds, any game bird or any other animal within the city.

Sec. 6-57. Feeding wild bears prohibited.

No person shall intentionally feed or attempt to feed a wild bear within the city. No person shall place any feed for any wild animal out of doors if a bear has been attracted to the feeding source.

Sec. 6-58. Notification of injured animal.

Any person who, as the operator of a motor vehicle, strikes a domestic animal shall immediately report such injury or death to the appropriate law enforcement official or the animal's owner.

Secs. 6-59 through 6-70. Reserved.

Article VII. Nondomestic Animals.

Sec. 6-71. Purpose.

The purpose of this Article is to prohibit the keeping of nondomesticated animals as pets within the city in order to protect the health safety, and welfare of the general public. The city council finds that nondomesticated animals kept as pets

in an urban setting present a substantial risk of harm to the general public; can increase the likelihood of disease transmission; and can cause public disturbances and health nuisances.

Sec. 6-72. Definitions.

For the purposes of this Chapter, the following words and phrases shall mean:

(a) Farm animal. A domesticated species of fowl, or hoofed mammal commonly kept for agricultural purpose such as a horse, cow, sheep, pig or llama;

(b) Nondomesticated animal. Every mammal, fowl and reptile species, including those born or raised in captivity, except the following:

(1) Domestic dogs (excluding hybrids with wolves, coyotes, or jackals) properly vaccinated against rabies pursuant to law;

(2) Domestic cats (excluding hybrids with ocelots or margays) properly vaccinated against rabies pursuant to law;

(3) Farm animals, including bees, Vietnamese pot-bellied pigs and pigeons, provided that no more than three Vietnamese pot-bellied pigs and no more than ten pigeons can be kept on any one lot or premises;

(4) Rodents, including hamsters, mice, gerbils, white rats or guinea pigs capable of being maintained continuously in cages;

(5) Rabbits;

(6) Species of common cage birds;

(7) Small nonpoisonous snakes;

(8) Chinchillas, hedgehogs, nonpoisonous lizards and other similar small animals capable of being maintained continuously in cages;

(9) Fish, unless prohibited by state or federal law;

(10) Neutered male or spayed female domestic ferrets;

(c) Veterinary hospital. Any establishment maintained or operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals;

(d) Zoological park. Any facility operated by a person, partnership, corporation, or governmental agency, other than a pet shop or kennel, displaying or exhibiting one or more species of nondomesticated animals.

Sec. 6-73. The keeping or selling of nondomesticated animals prohibited.

(a) No person shall own, possess or have custody on his or her premises any nondomesticated animal for display, training or exhibition purposes, whether gratuitously or for a fee, except as permitted under Chapter 50 of the Duluth City Code;

(b) No person shall keep or permit to be kept any nondomesticated animal as a pet, except as permitted under Chapter 50 of the Duluth City Code;

(c) No person shall offer for sale any nondomesticated animal unless authorized by federal or state law.

Sec. 6-74. Exceptions.

(a) Temporary events. A traveling circus, zoological park, or show which keeps nondomesticated animals and is in compliance with zoning requirements under Chapter 50 of the Duluth City Code;

(b) Permanent exhibits. A zoological park or other institution engaged in a permanent display of nondomesticated animals providing the location of the premises complies with all zoning requirements;

(c) Veterinary hospitals. Any bona fide veterinary hospital, acting within the scope of its business, is exempt from Section 6-73 of this Article and may hold such nondomesticated animals, provided protective devices adequate to prevent such animals from escaping or injuring the public are provided;

(d) Wildlife rehabilitators. Persons keeping nondomesticated animals as part of a bona fide institutional program to return such animals to the wild are exempt from Section 6-73 of this Article, provided the location of the premises complies with all zoning requirements.

Sec. 6-75. Impounding of nondomesticated animals.

The impoundment of nondomesticated animals shall be in accordance with Section 6-3 of this Chapter.

Sec. 6-76. Cruelty to nondomesticated animals.

(a) No person shall sponsor, promote, train a nondomesticated animal to participate in, or contribute to the involvement of a nondomesticated animal in any activity or event in which the animal is a victim of cruelty as defined herein or is induced or encouraged to perform through the use of chemical, electrical or manual devices in a manner that will cause or likely to cause physical injury or suffering to the animal;

(b) All equipment used on a performing nondomesticated animal shall fit properly and be in good working condition.

Secs. 6-77 through 6-80. Reserved.

Article VIII. Kennels, Pet Shops,
Veterinary Hospitals, etc.

Sec. 6-81. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the following meanings:

(a) Animal shelter shall mean any nonprofit organization through which spayed or neutered dogs, spayed or neutered cats or other companion animals are temporarily housed, displayed and/or placed for adoption;

(b) Breeding kennel shall be understood to mean a place where two or more dogs or cats, of which one or more are unaltered females, are kept on the same premises for breeding purposes of selling or giving away the offspring of such dogs or cats;

(c) Boarding kennel shall be understood to mean a place where three or more dogs or cats are kept for the purpose of boarding;

(d) Grooming shop. Any facility engaged in the practice of dog and cat grooming that is not a pet shop as defined in Section 6-81(f). The act of grooming shall include, but not limited to, the bathing, drying, fur clipping or manicuring of any dog or cat;

(e) Nuisance wildlife removal business. Any business that traps and/or removes captured animals or kills animals in exchange for monetary remuneration;

(f) Pet shop. Any building, shop or place kept or maintained for the care, exhibition for sale, sale or purchase of live dogs, cats, rabbits or other small animals, or birds, reptiles or fish, but shall not include veterinary hospitals, agricultural farms,

breeding kennels or persons or places selling only frogs, fish, worms or reptiles for use as live bait for fishing.

Sec. 6-82. License fees.

Persons operating or maintaining pet shops, grooming shops, breeding kennels, boarding kennels, or animal shelters or veterinary hospitals, when such facilities are maintained under professional supervision, shall, in addition to other licenses required by this Section, pay a license fee. The city council may, from time to time, by resolution, set such license fees. All such license fees shall be set by the council with the recommendation of the animal humane board for persons maintaining or operating the following:

- (a) Kennels keeping two to five dogs or cats;
- (b) Kennels keeping six to 11 dogs or cats;
- (c) Kennels keeping 12 or more dogs or cats;
- (d) Veterinary hospitals;
- (e) A pet shop business;
- (f) A commercial grooming shop business;
- (g) A nuisance wildlife removal business.

All such kennel fees shall apply only to dogs or cats over the age of four months. The city animal shelter is exempt from the provisions of this Section.

Sec. 6-83. License; application.

No person shall establish, operate or maintain a pet shop, grooming shop, dog or cat breeding kennel, boarding kennel, animal shelter, veterinary hospital or nuisance wildlife removal business without first obtaining an annual license therefor. Licenses shall be applied for at the office of the city clerk on forms provided by the clerk's office. Each application shall be accompanied by an annual license fee as set by the city council by resolution.

Applications for license renewals shall be made at least 30 days before the license term expires. In addition, any license application or renewal thereof shall be accompanied by a corporate surety bond to the city of Duluth in the amount of \$3,000, which shall be maintained in that amount throughout the license period to ensure payment of veterinary or other care for animals ordered by the animal control officer and to ensure the licensee's compliance with all laws pertaining to its operation. Pet shops shall also file with the city clerk a commercial general liability insurance policy covering applicant's pet shop operations in the amount of \$300,000 for bodily injury in any year and \$50,000 for property damage in any year.

Prior to the issuance of any first time license thereof under this Article, the animal control authority shall conduct an inspection of the licensee to determine compliance with this Article. Prior to the issuance of any license renewal thereof under this Article, the animal control authority may conduct an inspection of the licensee to determine compliance with this Article. The animal control authority, for all application of license and renewal of license, shall make a written report of such investigation to the animal humane board. A license shall not be issued or renewed without full compliance with the terms of this Article. License issued under this Article shall expire one year from the date of issuance, unless earlier suspended or revoked as provided in this Article. Each license issued under this Article shall be prominently displayed at all times in the establishment for which it is issued. A licensee shall be responsible for all actions and conduct of any employee or agent

of the licensee and any violation of this Article by an employee or agent shall be deemed to be the actions and conduct of the licensee.

Sec. 6-84. Issuance of licenses.

The animal humane board shall investigate every licensee's application for license within the city and, after such investigation, shall make a report of its findings. The investigation shall include a review of the inspection report of the animal control officer and other city officers. Within 45 days after an application for a license has been submitted to the board for its consideration, the board shall, in writing, make and file its report. If the board finds that the applicant has reasonable facilities and will operate the facilities in accordance with all applicable laws, and that no other good cause exists for the denial of a license, it shall direct the city clerk to issue said license. Items listed in Section 6-86(b) shall, without limitation, constitute good cause for the denial of a license.

Sec. 6-85. Complaints and questions as to licenses, laws, etc.

Whenever there shall be filed with the city clerk or with the city council any complaint or question relating to the issuance or granting of licenses or any problem relating to control or enforcement of this Article or any other regulations of the city relating to the licensees, such complaints or questions shall be referred immediately to the animal humane board and the board shall, at its next regular meeting or as soon thereafter as may be, investigate such complaints or give consideration to such questions and report its findings in writing to the city council. Such report and findings shall be filed with the city clerk as a public document.

Sec. 6-86. Suspension and revocation of licenses.

(a) When it comes to the attention of the animal humane board that any licensee licensed pursuant to this Chapter may have violated the provisions of this Chapter or any other law relating to its operation, or that such licensee may be engaging in other conduct that may constitute good cause for the suspension or revocation of its license, the animal humane board may call for a hearing to determine the validity of the allegations and to determine what, if any, disciplinary measures shall be recommended to the city council for their implementation against the licensee. Any hearing called pursuant to the provisions of this Section shall be held before the animal humane board and shall be held pursuant to the procedural and evidentiary provisions of Minnesota Statutes, sections 14.57 to 14.69, and rules promulgated thereunder. At such hearing, the board shall hear all relevant evidence and arguments from all parties. After due deliberation, the board shall determine the validity of the allegations and what, if any, corrective or punitive measures will be recommended to the city council. At the completion of the hearing and deliberations, the board shall direct the city clerk to prepare a report to the city council which shall consist of the board's findings of fact, conclusions and recommendation to the city council. The report shall be filed with the city council and served personally or by first class mail upon the parties to the hearing. The council shall also receive a copy of the transcript of the board's hearing and any exhibits introduced as evidence. The city council shall not render a decision on the matter until at least ten days after it has received the report of the animal humane board. During this ten day period, either party to the hearing may present written exceptions to the report of the animal humane board or make arrangements to be placed on the agenda of the city council to present oral argument to the city council

concerning the matter. The city council's decision on the matter shall be in the form of a written resolution which shall contain findings of fact and conclusions on all material issues and shall set forth any punitive action taken against the licensee. The bond of the licensee may be declared forfeited to the city by the city council for violation of the terms of this Article. A copy of the resolution shall be served upon the licensee personally or by first class mail;

(b) Without limiting other grounds for suspension or revocation, the following shall be deemed to be good cause for suspension or revocation of a license:

(1) Violation of any law relating to its operation, including, but not limited to, state, federal and local laws and animal cruelty;

(2) The licensee has failed to pay license fees or city or state sales tax or that property taxes on the building have not been paid;

(3) The licensee has failed to file or maintain any insurance or bond required by law;

(4) Refusal to cooperate with the board, police, department of public health or the city animal control officer in any investigation;

(5) The filing of a license application containing information or statements known by the applicant to be false;

(6) The licensee has engaged in fraudulent conduct or misrepresentation in connection with the handling, sale or disposition of animals or in representations to the board, animal control officer, police or department of public health;

(c) The city council may request that the animal humane board conduct a hearing concerning the licensee's operation licensed pursuant to this Chapter. The board shall conduct any hearings so requested.

Sec. 6-87. Duties of licensee.

It shall be the duty of each licensee of a licensed breeding kennel, boarding kennel, pet shop, grooming shop, nuisance wildlife removal business, animal shelters (whether public or private, profit or nonprofit) and veterinary hospital to operate and maintain such facility, as well as all of its pens, cages, runways and all the premises upon which it is situated, or which constitute a part of its operational area, in a clean and sanitary manner; to provide adequate light and ventilation; to dispose of urine and fecal material through an approved sewer system; to screen or otherwise fly-proof the isolation wards; to rat-proof all buildings and structures; to keep the premises vermin free; and to conduct its operations in such a manner that no public nuisance will be created or noisome odors arise therefrom. Animal control authority or designee, police officers, members of the animal humane board and members of the public health department shall be given free access to pet shops, grooming shops, kennels, nuisance wildlife removal businesses, animal shelters and veterinary hospitals and to its operational areas, or premises, for the purpose of ascertaining compliance or noncompliance with and enforcing this Section.

Sec. 6-88. Cruelty to animals.

(a) All licensees and their employees shall report to the animal control authority any significant outbreaks of pet illness in their businesses;

(b) It shall be unlawful for any licensees and or employees to:

(1) Violate Article VI, Cruelty to Animals, and any other Article in this Chapter;

(2) Permit the display in any store windows of any maimed, sick, infirm or disabled animal;

(3) Instigate or in any way further any act of cruelty to any animal or commit any other act tending to produce such cruelty;

(c) Complaints of animal cruelty shall be investigated by the animal control officer. If the animal control officer has reasonable cause to believe that animal cruelty or disease is taking place at the licensee's location but lacks the expertise to confirm or diagnose the problem, the animal control officer may secure the services of a licensed veterinarian or other expert to assist in the investigation. The cost of such veterinarian or expert shall be billed to the licensee and paid by said licensee within 60 days of the billing. If the sum is not paid within 60 days, it may be recovered from the bond of the licensee up to the penal sum of the bond. Failure of any licensee to pay veterinarian or other expert investigation fees shall be good cause for suspension or revocation of the licensee's license;

(d) In the event the animal control officer, any health officer, veterinarian employed by the animal control officer or police officer finds any ill or injured animal at a licensee's location with exception to a veterinary hospital, such individual shall remove such animal, depositing the same at a licensed animal hospital, at the expense of the licensee. If the owner and veterinarian agree that the probable cost of restoring the animal to health exceeds the value of the animal, the owner may request that the veterinarian destroy the animal at the owner's cost and the veterinarian shall honor the request. Upon the restoration of any sick animal to health, the licensee shall immediately, upon notification of the fact, claim the animal and thereupon pay the hospital bill. If, within three days, the licensee has not claimed such pet, the veterinarian shall notify the city and the city council thereof shall promptly declare the bond forfeited. The city clerk shall thereupon notify the surety and when the principal amount is collected shall cause to be delivered to the animal hospital the amount due it;

(e) In the event any such person finds any animal which has been abused, maltreated or neglected, the animal shall be placed in the hands of the animal control officer for adoption or euthanasia.

Sec. 6-89. Misrepresentation of breeds; prohibited animals.

(a) No person, licensee or employees of the licensee shall misrepresent the breed or age of any animal or fowl kept for sale, as an inducement to the sale of the animal;

(b) No licensee shall maintain, keep, harbor or sell any animal or species listed in Section 6-72 of this Chapter.

Sec. 6-90. Reserved.

Article IX. Dangerous Animals.

Sec. 6-91. Definitions.

For the purposes of this Chapter, the following words and phrases shall mean:

(a) Dangerous animal. Is an animal which has:

(1) Without provocation, inflicted substantial bodily harm on a human being on public or private property;

(2) Killed a domestic animal without provocation while off the owner's property; or

(3) Been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals;

(b) Potentially dangerous animal. Is an animal which has:

(1) When unprovoked, inflicts bites on human or domestic animal on public or private property;

(2) When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or

(3) Has the known propensity, tendency or disposition to attack while unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals;

(c) Proper enclosure. Proper enclosure means securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. Such enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

(1) Have a minimum overall floor size of 32 square feet;

(2) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be one and one-quarter inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground;

(3) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches;

(4) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel;

(d) Substantial bodily harm. Has the meaning given it under Minnesota Statute, Section 609.02, Subdivision 7.

(e) Unprovoked. Unprovoked shall mean the condition in which the animal is not purposely excited, stimulated, agitated or disturbed. It shall be a rebuttable presumption that any attack on a child 14 years of age or younger for which a reasonable person connotes an intent to inflict bodily harm shall be considered to be unprovoked unless the child is engaged in the commission of a crime or illegal activity, including activities classified in Minnesota Statutes, Section 343, as cruelty to animals.

Sec. 6-92. Attack by an animal.

(a) It shall be unlawful for an owner to fail to restrain an animal from inflicting or attempting to inflict bodily injury to any person or other animal whether or not the owner is present. This Section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent;

(b) If any police officer or animal control officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

Sec. 6-93. Designation as potentially dangerous and dangerous animals.

(a) Potentially dangerous animal. The court or animal control authority shall designate any animal as a potentially dangerous animal upon receiving such evidence that such potentially dangerous animal has, when unprovoked, then bitten, attacked or threatened the safety of a person or a domestic animal as stated in Section 6-91(b). When an animal is declared potentially dangerous, the animal control authority shall cause one owner of the potentially dangerous animal to be notified in writing that such animal is potentially dangerous;

(b) Dangerous animal. The court or animal control authority shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

(1) That such an animal has, when unprovoked, then bitten, attacked or threatened the safety of a person or domestic animal as stated in Section 6-91(a); or

(2) That such animal has been declared potentially dangerous and/or the owner has personal knowledge of the same and such animal has then bitten, attacked or threatened the safety of a person or domestic animal as stated in Section 6-91(a); or

(3) That such an animal exhibits fresh wounds, scarring, or is observed in a fight, or other indications which to a reasonable person evidence that the animal has or will be used, trained or encouraged to fight with another animal; or

(4) That the owner of such animal has in custody or possession any training apparatus, paraphernalia or drugs used to prepare such animal to be fought with another animal;

(c) Registration of dangerous animal. A county shall issue a certificate of registration to the owner of a dangerous dog if the owner presents sufficient evidence that:

(1) A proper enclosure exists for the dangerous dog and a posting on the premises with a clearly visible warning sign, including a warning symbol to inform children, that there is a dangerous dog on the property; and

(2) A surety bond issued by a surety company authorized to conduct business in this state in a form acceptable to the county in the sum of at least \$50,000, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in this state in the amount of at least \$50,000, insuring the owner for any personal injuries inflicted by the dangerous dog;

(d) Warning symbol. If a county issues a certificate of registration to the owner of a dangerous dog pursuant to Minnesota Statute 347.51, Subdivision 2, the county must provide, for posting on the owner's property, a copy of a warning symbol to inform children that there is a dangerous dog on the property. The design of the warning symbol must be uniform and specified by the commissioner of public safety, after consultation with animal control professionals. The design specification process is exempt from rule making under Chapter 14 and is exempt from Section 14-38. The commissioner shall provide the number of copies of the warning symbol requested by each county and shall charge the county the actual cost of the warning symbols received. The county may charge the registrant a reasonable fee to cover its administrative costs and the cost of the warning symbol;

(e) Fee. The county may charge the owner an annual fee, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this Section;

(f) Law enforcement: exemption. The provisions of this Section do not apply to dangerous dogs used by law enforcement officials for police work;

(g) Exemption. Dogs may not be declared dangerous if the threat, injury, or damage was sustained by a person:

(1) Who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;

(2) Who was provoking, tormenting, abusing or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused or assaulted the dog; or

(3) Who was committing or attempting to commit a crime;

(h) Counties without licensing systems. If the owner of a dangerous dog resides in a county that does not license dogs under Minnesota Statute, sections 347.08 to 347.21, the owner shall obtain a certificate as required under this Section from the county auditor or other person designated by the county board in the county where the owner resides;

(i) Tag. A dangerous dog registered under this Section must have a standardized, easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol, affixed to the dog's collar at all times. The commissioner of public safety, after consultation with animal control professionals, shall provide by rule for the design of the tag.

Sec. 6-94. Dangerous animal requirements.

(a) Requirements. If the court or animal control authority does not order the destruction of an animal that has been declared dangerous, the court or animal control authority shall, as an alternative, order any or all of the following:

(1) That the owner provide and maintain a proper enclosure for the dangerous animal as specified in Section 6-91(c); and

(2) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in Minnesota Statute 347.51; and

(3) Provides and shows proof annually of public liability insurance in the minimum amount of \$50,000; and

(4) If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed

six feet in length) and under the physical restraint of a person 18 years of age or older. The muzzle must be of such design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration; and

(5) If the animal is a dog or cat, it must have an easily identifiable, standardized tag identifying the dog or cat as dangerous affixed to the dog's or cat's collar at all times as specified in Minnesota Statute 347.51; and

(6) Provides and shows proof of microchip identification as required in Section 6-99; and

(7) All animals deemed dangerous by the animal control authority shall be registered with St. Louis County auditor's office;

(8) If the animal is a dog or cat, the animal must be licensed and up to date on rabies vaccination. If the animal is a ferret, it must be up to date with rabies vaccination;

(b) Seizure. Animal control shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court.

(c) Reclaiming animals. A dangerous animal seized under Section 6-97(b) may be reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presenting proof to animal control that each of the requirements under Section 6-94 are fulfilled. An animal not reclaimed under this Section within 14 days may be disposed of as provided under Section 6-98, and the owner is liable to animal control for costs incurred in confining the animal;

(d) Subsequent offenses. If an owner of an animal has subsequently violated the provisions under this Article with the same animal, the animal must be seized by animal control. The owner may request a hearing. If the owner is found to have violated the provisions for which the animal was seized, the animal control authority shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of this Article. If the animal is not yet reclaimed by the owner within 14 days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under this Chapter and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

Sec. 6-95. Notification of new address.

The owner of an animal which has been identified as dangerous or potentially dangerous must notify the animal control authority in writing if the animal is to be relocated from its current address or given or sold to another person. The notification must be given in writing at least 14 days prior to the relocation or transfer of ownership. The notification must include the current owner's name and address, the relocation address, and the name of the new owner, if any.

Sec. 6-96. Concealing of dangerous animals.

No person shall harbor, hide or conceal an animal which has been declared dangerous by the animal humane board, or by the animal control officer, which has been ordered into custody for euthanasia or other disposition.

Sec. 6-97. Authority to order destruction; procedure.

(a) The court or the animal control authority, upon finding that an animal is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:

(1) The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or

(2) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals;

(b) Procedure. The court or the animal control authority, after having determined that an animal is dangerous, may proceed in the following manner:

(1) The animal control authority shall cause one owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make such orders as deemed proper. The owner shall be notified as to dates, times, places and parties bitten, and shall be given 14 days to appeal this order by requesting a hearing before the animal control authority for a review of this determination.

If no appeal is filed, the orders issued will stand or the animal control authority may order the animal destroyed.

If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the animal control authority, who shall set a date for hearing not more than three weeks after demand for said hearing. The records of the animal control authority and police shall be admissible for consideration by the animal control authority without further foundation. After considering all evidence pertaining to the temperament of the animal, the animal control authority shall make such order as he/she deems proper. The animal control authority may order that an animal control officer take the animal into custody for destruction, if such animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the animal control officer and failure to do so shall be a violation of this Code;

(2) Nothing in this Section shall prevent the animal control authority from ordering the immediate destruction of a rabies-suspected animal pursuant to Article III of the Duluth City Code.

Sec. 6-98. Destruction of unclaimed dogs.

At the expiration of the time a dog is impounded as provided for in this Chapter, if said dog has not been reclaimed in accordance with the provisions hereof, it shall be the duty of the animal control authority to cause such dog to be euthanized according to the most humane and approved methods, or otherwise disposed of, as directed by the animal control authority.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Sec. 6-99. Microchip identification required.

The owner of a dangerous dog is required to have a microchip installed or injected on the animal. The microchip shall be installed in or injected under the skin of the animal by a licensed veterinarian and shall be designed so that, when scanned by an electronic reader, it is capable of providing the identification of the dog's owner. An appropriate fee shall be paid by the owner to the licensed veterinarian for the microchip and the registration of the dangerous dog. The identification of the owner and residence shall be maintained on file at the Duluth animal shelter.

Sec. 6-100. Reserved.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 19, 1999)

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

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

Nays: None -- 0

Absent: Councilor Edwards -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 9, 1999
Approved August 9, 1999
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 23, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the council meeting held on June 28, 1999, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0823-01 Mary June MacDonald-Nesgoda, et al. (three signatures), petitioning for vacation of land between Lots 15 and 16, Block 6, and Lots 1, 2, 3 and 4, Block 5, Duluth Heights Fifth Division. -- Assessor

- - -

REPORTS OF OFFICERS

99-0823-25 Administrative Assistant submitting copy of letter from Mayor Doty regarding his instructions to staff to take immediate action to recommend changes in the funding mechanism that is currently used by the stormwater utility. -- Received

Councilor Swapinski noted that the reason changes in the fee structure were not made previously was because of concern about the issue of defensibility if a portion of the recipients of the stormwater services and fees are deleted. He added that it may open the city up to possible litigation, which could jeopardize the entire stormwater utility fee structure system. Councilor Swapinski requested an opinion and recommendation from the city attorney and specific staff members regarding the mayor's directive.

Responding to Councilor Gilbert, Administrative Assistant Hartl stated that the issue of compensating rural residents who have already paid the additional stormwater utility charges has not been resolved.

Councilor Hogg and President Keenan expressed their support for the anticipated changes in the rate structure.

99-0823-02 Assessor submitting letters of sufficiency pertaining to petitions to vacate:

(a) Parcel of land between Lot 16, Block 6, and Lot 1, Block 5, Duluth Heights Fifth Division;

(b) 50th Avenue East street easement between Oneida Street and Glenwood Street to Lots 290 and 291, Block 26, and Lots 292 and 293, Block 27 on Oneida Street and Lots 338 and 339, Block 30 and Lots 340 and 341, Block 31 on Glenwood Street in Crosley Park Addition to Duluth. -- Received

99-0823-03 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses from: (a) Duluth Chapter/Minnesota Deer Hunters Association (raffle) on October 14, 1999; (b) St. Michael's Church on October 10, 1999 (raffle), and November 7, 1999 (raffle and bingo). -- Received

99-0823-04 Engineering division submitting monthly project status report of August 1, 1999. -- Received

99-0823-11 Treasurer submitting annual report of all gifts received by the city for \$5,000 or less during the period of August 1, 1998, through July 31, 1999, pursuant to Resolution 97-0594. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-0823-05 Duluth housing commission and Duluth housing trust fund board minutes of June 10, 1999, meeting. -- Received

99-0823-06 Heritage preservation commission minutes of July 21, 1999, meeting. -- Received

99-0823-07 Human rights commission minutes of July 12, 1999, meeting. -- Received

99-0823-08 Sanitary sewer board for the WLSSD minutes of July 26, 1999, meeting. -- Received

99-0823-09 Spirit Mountain recreation area authority minutes of June 29, 1999, meeting. -- Received

99-0823-10 Tree commission minutes of July 13, 1999, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Peggy Marrin, representing the Duluth Preservation Alliance gave a brief history of the organization and stated that members would like to be involved in the process of development in the early stages.

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RESOLUTION FOR RECONSIDERATION

Councilor Prettner Solon moved to reconsider Resolution 99-0625, to establish metered angle parking on the north side of East Superior Street between Lake Avenue and First Avenue East, which motion was seconded and unanimously carried.

Councilor Prettner Solon stated that the council did not have sufficient time to examine the problems of the area or to think about alternative solutions. She continued by saying that since that time the council has met with administrative, architectural and engineering staff to come up with a viable solution that will relieve some of the bottleneck traffic by widening the turn lane and improving the flow of traffic through the intersection, which makes approval of this resolution more acceptable.

Councilor Hogg noted that the solution of extending the left turn lane east of the main entrance of the Technology Village will solve his concern about the bottleneck and, in addition, the westbound left turn arrow on to Lake Avenue has not been functional because of construction and that it is going to be reinstated.

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

K.L. Lewis stated that she has observed traffic at Lake Avenue and Superior Street. She added that once the angled parking is installed, traffic will flow no better than it does now because of the space required for it. Ms. Lewis suggested a bus stop and parallel delivery zone with a 15 minute maximum stop should be considered and that double parking by express companies be enforced.

Councilor Hogg noted that deliveries on the upper side of Superior Street are supposed to be made via the alley and requested that parking regulations for delivery trucks on Superior Street be enforced. In addition, he requested the administration to propose a policy for eastbound trucks making deliveries to businesses on the lower side of Superior Street.

Resolution 99-0625 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

BE IT RESOLVED, that in accordance with the provisions of sections 33-94 and 33-108 of the Duluth City Code, 1959, as amended, the following metered angle parking is hereby established:

north side of East Superior Street from 250 feet east of Lake Avenue to 375 feet east of Lake Avenue.

RESOLVED FURTHER, that the Duluth City Council limit the length to 19 feet for vehicles parked in any diagonal space on east Superior Street from Lake Avenue to First Avenue East.

RESOLVED FURTHER, that this resolution rescinds any previous resolutions inconsistent with its provisions.

Resolution 99-0625 was unanimously adopted.

Approved August 23, 1999

GARY L. DOTY, Mayor

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RESOLUTIONS TABLED

Councilor Prettner Solon moved to remove Resolution 99-0526, accepting donation of Pine Knot Cabin and authorizing the appropriate city officials to enter into a grant agreement with the Minnesota department of natural resources and to accept a \$5,000 grant for moving the cabin and restoring the site, from the table, which motion was seconded and carried upon a unanimous vote.

Councilor Prettner Solon stated that the administration has requested that this resolution be referred back to them as there is more work to be done on it. She moved to return the resolution back to the administration, which motion was seconded and unanimously carried.

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Councilor Gilbert moved to remove Resolution 99-0633, awarding contract to Ulland Brothers, Inc., for a 16 inch water main in Basswood Avenue and Myrtle Street, in the amount of \$521,550, from the table, which motion was seconded and unanimously carried.

Responding to Councilor Hogg, Mr. Hartl stated that the administration would like council approval of this contract at this time even though it has not been determined whether the Opus Development site will be included in this project.

Resolution 99-0633 was adopted as follows:

BY COUNCILOR GILBERT:

RESOLVED, that Ulland Brothers, Inc., be and hereby is awarded a contract for construction of a 16 inch water main in Basswood Avenue and a 16 inch water main in Myrtle Street for the water and gas department in accordance with specifications on its low specification bid of \$521,550, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5532.

Resolution 99-0633 was unanimously adopted.

Approved August 23, 1999

GARY L. DOTY, Mayor

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Councilor Swapinski moved to remove Resolution 99-0631, awarding contract to Duluth Superior Erection, Inc., for 1999 citywide sidewalk repairs program, in the amount of \$118,000, from the table, which motion was seconded and unanimously carried.

Resolution 99-0631 was adopted as follows:

BY COUNCILOR SWAPINSKI:

RESOLVED, that Duluth Superior Erection, Inc., be and hereby is awarded a contract for construction of the 1999 citywide sidewalk repairs program for the engineering division in accordance with specifications on its low specification bid of \$118,000, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5320, Object 5530.

Resolution 99-0631 was unanimously adopted.

Approved August 23, 1999
GARY L. DOTY, Mayor

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR EDWARDS:

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

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth city council approves of the Minnesota gambling control board issuing a premise permit to the following organizations.

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

	<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
1.	Duluth Curling Club	Kegler's, Inc.	July 28, 1999
2.	Duluth Softball Players Association	Charlies Club	August 5, 1999
3.	Duluth Junior Football League	RT Quinlan's Saloon	August 3, 1999
4.	Lester Park Hockey	O'Gilby's	July 15, 1999

Resolution 99-0645 was unanimously adopted.
Approved August 23, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of a temporary on sale intoxicating liquor license to the following licensee, with an application fee of \$200, subject to departmental approvals with any specific restrictions, and further subject to approval of the liquor control commissioner:

Save Our Ship, Inc. (Leif Erikson Restoration), Leif Erikson Park, for August 28, 1999, from 3:00 p.m. to 11:00 p.m., with Neill Atkins, manager.

Resolution 99-0646 was unanimously adopted.
Approved August 23, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals with any specific restrictions:

Duluth Softball Players Association (Charlie's Club Fall Classic), Wheeler Field, for September 25 and 26, 1999, with Tris Rude, manager.

Resolution 99-0647 was unanimously adopted.

Approved August 23, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor license, subject to departmental approvals, with any specific restrictions:

Grandma's, Inc. (Grandma's Saloon & Deli), 522 Lake Avenue South, for September 24 & 25, 1999, with the music and serving ceasing at midnight.

Resolution 99-0648 was unanimously adopted.

Approved August 23, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues 68 on sale intoxicating liquor renewal licenses, 63 on sale Sunday intoxicating liquor renewal licenses, 18 on sale dancing renewal licenses, and ten additional bar renewal licenses for the period beginning September 1, 1999, and ending August 31, 2000, 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.99-0823-12.

Resolution 99-0649 was unanimously adopted.

Approved August 23, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves 15 on sale wine licenses for the period beginning September 1, 1999, and ending August 31, 2000, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 99-0823-13.

Resolution 99-0650 was unanimously adopted.

Approved August 23, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves eight on sale club liquor licenses and seven on sale Sunday licenses for the period beginning September 1, 1999, and ending August 31, 2000, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 99-0823-15.

Resolution 99-0652 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved August 23, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

COMMISSION ON AGING

Marlys Carper for a term expiring July 1, 2001, replacing Joseph Devore who resigned. Resolution 99-0410 was unanimously adopted.

Approved August 23, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of water and gas maintenance apprentice, which were approved by the civil service board on August 3, 1999, and which are filed with the city clerk as Public Document No. 99-0823-16, are approved. This classification shall be subject to the city's collective bargaining agreement with its basic unit employees. The pay range and rate shall remain unchanged, pay range 25A, pay rate \$2,334.

Resolution 99-0640 was unanimously adopted.

Approved August 23, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of heavy equipment operator, which were approved by the civil service board on August 3, 1999, and which are filed with the city clerk as Public Document No. 99-0823-17, are approved. This classification shall be subject to the city's collective bargaining agreement with its basic unit employees. The pay range and rates shall remain unchanged, pay range 27, pay rate \$2,531 to \$2,995.

Resolution 99-0641 was unanimously adopted.

Approved August 23, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of golf worker, which were approved by the civil service board on July 6, 1999, which are filed with the city clerk as Public Document No. 99-0823-24, are approved, that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range shall remain the same; pay range 15, \$1,431 to \$1,673 per month.

Resolution 99-0658 was unanimously adopted.

Approved August 23, 1999
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. 18117, with American Indian Community Housing Organization, substantially

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

in the form of that on file in the office of the city clerk as Public Document No. 99-0823-18, extending the term of the agreement through December 31, 1999, with no change in compensation, under the terms of the agreement.

Resolution 99-0643 was unanimously adopted.

Approved August 23, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Greater Downtown Council, under which the Greater Downtown Council will conduct certain activities in the Downtown area, which agreement is on file in the office of the city clerk as Public Document No. 99-0823-20, at a cost to the city of \$87,194, which shall be paid from General Fund 100-015-2030-SP05.

Resolution 99-0656 was unanimously adopted.

Approved August 23, 1999

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Krech, Ojard & Associates, P.A., for the sum of not to exceed \$14,050, payable from Capital Fund 450, Ag. 015, Org. 1999, Obj. C918, for providing certain engineering services to the city of Duluth in connection with the city of Duluth parking ramp repairs, 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. 99-0823-21.

Resolution 99-0639 was unanimously adopted.

Approved August 23, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Brian M. Johnson, a copy of which is on file in the office of the city clerk as Public Document No. 99-0823-22, to allow construction of a residence on property fronting on Vinland Street by agreeing to petition for the permanent improvement of 75th Avenue West from Vinland Street north to the platted Prince Street and agreeing that the property involved will not be subdivided.

Resolution 99-0638 was unanimously adopted.

Approved August 23, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Progressive Constructors, Inc., be and hereby is awarded a contract for bridge repair #L69812 on 27th Avenue West over BN Railroad for the engineering division in accordance with specifications on its low specification bid of \$77,894, terms Net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2131, Object 5530.

Resolution 99-0654 was unanimously adopted.

Approved August 23, 1999

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR HOGG:

RESOLVED, that the assessment roll levied to defray the assessable portion of Contract No. 5323 (winter 1998-99 snow removal), total assessable amount \$474.80, is hereby confirmed.

Resolution 99-0657 was unanimously adopted.

Approved August 23, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves 20 off sale intoxicating liquor licenses for the period beginning September 1, 1999, and ending August 31, 2000, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 99-0823-14.

Resolution 99-0651 was unanimously adopted.

Approved August 23, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to Agreement No. 17911, substantially in the form of that on file in the office of the city clerk as Public Document No. 99-0823-19, with the Greater Downtown Council for the provision of skywalk security services extending the term of the agreement to run through December 31, 1999, and increasing the amount payable thereunder by \$21,800, payable from General Fund 100, Agency 500, Org. 1950, property management division.

Resolution 99-0655 was unanimously adopted.

Approved August 23, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0659, affirming, and Resolution 99-0660, amending, respectively, the planning commission action granting a water resources management ordinance variance and special use permit to George Hovland, Snowflake Nordic Ski Center, to fill wetlands on property located on the east side of Rice Lake Road approximately one quarter mile north of Arrowhead Road, by Councilor Prettner Solon, were introduced for discussion.

Councilor Prettner Solon stated that a committee meeting was held on this issue with a very thorough discussion about wetlands, wetland mitigation and permeable and nonpermeable surfaces. She stated that the committee recommendation is split and that the minority report is recommending Resolution 99-0660, which amends the planning commission action and eliminates the recommendations of the environmental advisory council requiring that the skating surface be of a permeable surface and that mitigation occur within the Chester Creek watershed rather than the larger Lake Superior watershed. Councilor Prettner Solon stated that the majority report recommends Resolution 99-0659, which affirms the recommendations of the planning commission and environmental advisory council.

President Keenan noted the process that has been established with the planning commission and environmental advisory council coming together to make solid recommendations on environmentally sensitive issues. He noted that this is the first sensitive issue to come before

the council that both entities have worked on and he believes that it is bad policy for the council to overturn the recommendation. President Keenan stated that, as a member of the environmental advisory council, he cannot agree to remove the two conditions required for mitigation.

Councilor Fena stated that although the proposed project will create some recreational opportunities that the community really needs, it will eliminate a large area of wetlands at the top of the hill which will affect residents and the city's infrastructure down the hill. She continued by saying that mitigating the wetlands somewhere between Duluth and Two Harbors does not benefit the city and sets a precedent for future proposals.

Councilor Hogg stated support and appreciation for the process and the concerns raised by the environmental advisory council regarding this issue. He noted that mitigation is necessary, but will probably not be as far away as Two Harbors. Councilor Hogg continued by saying that the area to be mitigated is nominal compared to a project like the Miller Hill Mall and he cautioned that the process established should not become so detailed that projects will not get done.

Councilor Swapinski said it is important that the council support the recommendation of the environmental advisory council, stay true to the city ordinance and hope that the mitigation can occur within the Chester Creek watershed. He noted that the first condition of the resolution is not as important to him as the second.

Councilor Gilbert stated that once again, because of the city's failure to develop a comprehensive plan for preservation of green space and water retention, the property will experience the same problems that have occurred in the Miller Hill Mall corridor. He continued by saying that if this project is allowed as the developer proposes, the green space will be lost.

Councilor Hales commended Mr. Hovland on a wonderful plan and reminded councilors that Duluth's young people have been begging for this kind of an aggressive sports park. She expressed frustration that another layer of bureaucracy has been created for the general public to have to wind their way through in order to develop their own property. Councilor Hales noted that the wetland law interpretation made by the environmental advisory council is somewhat different than the interpretation made by the planning commission and city attorney's office. She emphasized that if the council insists that Mr. Hovland mitigate the wetlands on his own property, a large amount of birch and hardwood forest will be lost. Councilor Hales said that she respects Councilor Fena's sponge theory, but noted that there are a number of people in the community who are well aware of what needs to be done and are regulated by the Minnesota department of natural resources and U.S. corps of engineers with necessary permits to develop property. She stated the city council needs to be reasonable when making decisions such as this.

Councilor Fena reminded councilors that this resolution deals with a water resources management ordinance variance request because Mr. Hovland's project, which was previously approved by the council, changed and there was a need for the variance. She reiterated that there is no plan for the development of this area and that federal aviation administration regulations prevent much of these wetlands from ever being developed. She said the question is whether the city is going to grant variances and how water resources are going to be managed at the top of the hill in the long term.

Councilor Swapinski agreed that the project is not in question, but how the council is going to address some of the concerns that come along with it. He said it is reasonable to request that the wetlands be mitigated, not within the property owned by Mr. Hovland, but in that immediate watershed.

Councilor Hogg noted that both resolutions grant variances and that the issues are whether slightly more than an acre needs to be permeable or nonpermeable, and whether the mitigation

that has to happen needs to be restricted to the Chester Creek watershed or whether it can be part of a greater watershed.

President Keenan stated he is uncomfortable allowing the filling of five acres of wetlands. He reminded the council that the city's water resource management ordinance is much stricter than the state's and if the council is going to keep overturning the planning commission and environmental advisory council recommendations, then the ordinance should be changed.

Councilor Swapinski moved to amend Resolution 99-0659 by deleting the following language in Condition (c):

"(1) The infield of the speed skating elbow be maintained as a permeable surface," which was seconded for discussion.

Councilor Swapinski said he does not feel that the permeability of that one acre is as critical as the mitigation of the wetlands.

Councilor Swapinski's amendment carried upon the following vote:

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

Nays: Councilor Fena -- 1

Resolution 99-0659, as amended, failed upon the following vote (Public Document No. 99-0823-23):

Yeas: Councilors Gilbert, Swapinski and President Keenan -- 3

Nays: Councilors Edwards, Fena, Hales, Hogg, Prettner Solon and Rapaich -- 6

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Resolution 99-0660 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, George Hovland has submitted to the city council an appeal of the Duluth planning commission actions of June 23 and July 28, 1999, which approved a water resources management ordinance variance and special use permit request for the filling of wetland and the placement of fill in a wetland for expansion of the recreational facilities at Snowflake Nordic Ski Center on property described as SW¼ of the NE¼, Section 8, Township 50, Range 14, lying north and easterly of County Highway 4 (Rice Lake Road), except that property associated with the Arrowhead Tennis Center, and located on the east side of Rice Lake Road approximately one-quarter mile north of Arrowhead Road, subject to the following conditions:

(a) Mitigation of the wetland impact through the purchase of wetland credits or development of replacement wetlands outside the immediate watershed. To insure compliance, the applicant shall provide the city of Duluth with a letter of credit in the amount of \$10,000 per acre of impact, to provide for the development of replacement wetlands or the purchase of wetland credits of type 6/7 (shrub-scrub/forested) wetland, said mitigation to be completed or credits to be purchased within a two year period from the date of acceptance of said letter. Prior to the purchase of credits, the value of the banked credits shall be certified by the local governmental unit as appropriate for the required mitigation;

(b) That the project be limited to, constructed and maintained in accordance with, the plans submitted by Kent G. Worley, landscape architect, entitled Snowflake Sport Complex;

(c) That items (a) and (b) above be subject to the recommendations of the city of Duluth environmental advisory council of July 7, 1999, which are:

(1) The infield of the speed skating oval be maintained as a permeable surface;

(2) That the mitigation or mitigation credits be located in the Chester Creek watershed; and

WHEREAS, the city council has determined that Condition (c) is inappropriate.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

NOW, THEREFORE, BE IT RESOLVED, that city council hereby amends the planning commission action of June 23 and July 28, 1999, to require that only conditions (a) and (b) be complied with.

Resolution 99-0660 was adopted upon the following vote:

Yeas: Councilors Edwards, Hales, Hogg, Prettner Solon and Rapaich -- 5

Nays: Councilors Fena, Gilbert, Swapinski and President Keenan -- 4

Approved August 23, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0644, by President Keenan, accepting a monetary gift from the Lillian L. Naslund Trust to the Duluth public library, was introduced for discussion.

Councilor Hogg stated that a gift of this type creates an opportunity for the library to do some things that could never happen within the city budget. He encouraged those who have enjoyed library services and reading and learning all of their lives to consider the giving of gifts of this type to allow the library to expand its services in ways not attainable within the city budget.

Responding to Councilor Hogg, Mr. Hartl stated that no decision has been made on how to spend the money.

Resolution 99-0644 was adopted as follows:

BY PRESIDENT KEENAN:

RESOLVED, that the city hereby accepts a monetary gift of \$239,638.39 from the Lillian L. Naslund Trust to the Duluth public library, which monies shall be deposited in Fund 744, Agency 300, Revenue Source 4690, gifts and donations.

Resolution 99-0644 was unanimously adopted.

Approved August 23, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0653, by Councilor Swapinski, awarding contract to Northland Constructors, Inc., for MacFarlane Road and Blackman Avenue street improvement, in the amount of \$184,233.90, was introduced for discussion.

Councilor Swapinski stated he will abstain from voting on this resolution.

Resolution 99-0653 was adopted as follows:

BY COUNCILOR SWAPINSKI:

RESOLVED, that Northland Constructors, Inc., be and hereby is awarded a contract for construction of street improvement in MacFarlane Road and Blackman Avenue for the engineering division in accordance with specifications on its low specification bid of \$184,233.90, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5317, Object 5530.

Resolution 99-0653 was adopted upon the following vote:

Yeas: Councilors Edwards, Fena, Gilbert, Hales, Hogg, Prettner Solon, Rapaich and President Keenan -- 8

Nays: None -- 0

Abstention: Councilor Swapinski -- 1

Approved August 23, 1999

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the second time:

BY COUNCILOR PRETTNER SOLON

99-022 (9421) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO THE UNIVERSITY OF MINNESOTA DULUTH FOR THE INSTALLATION OF FIBER OPTIC CABLES UNDER ST. MARIE STREET AT THE INTERSECTION OF EAST UNIVERSITY CIRCLE.

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

- - -

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

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

- - -

ORDINANCE NO. 9421

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO THE UNIVERSITY OF MINNESOTA DULUTH FOR THE INSTALLATION OF FIBER OPTIC CABLES UNDER ST. MARIE STREET AT THE INTERSECTION OF EAST UNIVERSITY CIRCLE.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to the University of Minnesota, Duluth, their successors and interests, referred to herein as the permittees, to occupy, erect and maintain an underground fiber optic communication cable in that part of St. Marie Street as the same was dedicated to the use of the public and the plat of Motor Line Park Division, on file and of record in the office of the register of deeds in and for St. Louis County, Minnesota, described as follows: that portion of St. Marie Street located between the side lot lines of Lot 3, Block 10, Motor Line Park Division, projected 66 feet southerly from the south lot line of said Lot 3, to the southerly right- of-way of said St. Marie Street.

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 underground fiber optic communication cable 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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 underground fiber optic communication cable 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 St. Marie Street and agree that the city of Duluth shall not be liable for damage caused to such underground fiber optic communication cable while the city is engaged in making repairs to public utilities, provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such underground fiber optic communication cable in said St. Marie Street.

Section 6. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: October 3, 1999)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 23, 1999
Approved August 23, 1999
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 13, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0913-01 Duluth Bible Church submitting petition for vacation of Basswood Avenue between Walnut Street and Morgan Avenue (in Arlington Place Addition). -- Assessor

99-0913-02 Harold S. Webster, et al. (two signatures) petitioning for vacation of easterly three feet of Tenth Avenue East adjoining Lot 3, Block 161, Portland Division of Duluth, and the southerly 56-2/3 feet of Lots 1, 2 and 3, Block 161, Ray's Annex to Portland. -- Assessor

99-0913-03 Minnesota state auditor submitting audit report for Duluth airport authority for the year ending December 31, 1998. -- Received

99-0913-04 Fond-du-Lac utility task force submitting communication regarding sanitary sewer lines (99-0469R). -- Received

99-0913-24 The following submitting communications regarding the stormwater utility fees (99-023-O): (a) Georgia-Pacific Corporation; (b) Lake Superior Warehousing Co., Inc.; (c) United Parcel Service. -- Received

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REPORTS OF OFFICERS

99-0913-27 Mayor Doty submitting: (a) 2000 budget; (b) 2000 budget address. -- Received

99-0913-05 Assessor submitting letters of sufficiency of petitions to vacate: (a) Basswood Avenue between Walnut Street and Morgan Avenue (in Arlington Place Addition); (b) Easterly three feet of Tenth Avenue East adjoining Lot 3, Block 161, Portland Division. -- Received

99-0913-06 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license from St. Mary's Medical Center (raffle) on November 3, 1999. -- Received

99-0913-07 Community development and housing division submitting: (a) HRA report for the HUD CD funded housing rehabilitation program for July 1999; (b) HUD quarterly report (April - June, 1999). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-0913-08 Board of zoning appeals minutes of July 27, 1999, meeting. -- Received

99-0913-09 Building appeal board minutes of June 9, 1999, meeting. -- Received

99-0913-10 Duluth airport authority minutes of: (a) July 20; (b) July 30, 1999, meetings. -- Received

99-0913-11 Environmental advisory council minutes of July 7, 1999, meeting. -- Received

99-0913-12 Planning commission minutes of: (a) June 23; (b) July 28, 1999, meetings. -- Received

99-0913-13 Seaway Port authority of Duluth minutes of: (a) June 29; (b) July 21, 1999, meetings. -- Received

99-0913-14 Spirit Mountain recreation area authority minutes of: (a) March 25; (b) August 4, 1999, meetings. -- Received

99-0913-15 Technical design advisory committee for DWMX-D minutes of June 15, 1999, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Russ Stover voiced his concern that applicants for the Spirit Mountain recreation area authority from the fifth council district be given consideration for appointment to that body.

- - -

Peggy Marrin expressed her concern over what is political and who can control a meeting, citing a recent council committee meeting regarding the Duluth economic development authority (DEDA) that was rescheduled three times, and the how the issue of the meeting was never arrived at.

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RESOLUTION TABLED

Councilor Edwards moved to remove Resolution 99-0506, approving the permanent expansion of the licensed premises of Chi-Chi's (Chi-Chi's Mexican Restaurant), 600 East Superior Street, and MKR, Limited (Bennett's on the Lake), 600 East Superior Street, from the table, which motion was seconded and unanimously carried.

Resolution 99-0506 was adopted as follows:

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor licenses for the period ending August 31, 1999, subject to departmental approvals:

Chi-Chi's, Inc. (Chi-Chi's Mexican Restaurant), 600 East Superior Steet;
MKR, Limited (Bennett's on the Lake), 600 East Superior Street.

Resolution 99-0506 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR EDWARDS:

WHEREAS, the Arrowhead Chapter of Pheasants Forever 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 Arrowhead Chapter of Pheasants Forever and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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 99-0680 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals with any specific restrictions:

Lakeside Lester Park Business Association, Lester Park picnic area, for September 25, 1999, with Andy Peterson, manager.

Resolution 99-0696 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

ALCOHOLIC BEVERAGE BOARD

William A. Carlson for a term expiring October 31, 2002, replacing Rosemary Christensen who resigned.

Resolution 99-0663 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

DULUTH PUBLIC ARTS COMMISSION

John H. Anderson for a term expiring September 30, 2002, replacing Ann Klefsted.

Resolution 99-0664 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

DULUTH PUBLIC ARTS COMMISSION

Marilyn Bowes and Larry Turbes for terms expiring September 30, 2002.

Resolution 99-0665 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

PARKS AND RECREATION COMMISSION

John Kohlhaas (District 4) for a term expiring February 13, 2001, replacing George Weller who resigned.

Resolution 99-0666 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

WOMEN'S COMMISSION

Bridget Brine for a term expiring September 17, 2002, replacing Cheryl Graham.

Resolution 99-0668 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

WOMEN'S COMMISSION

Leanne Ventrella for a term expiring September 17, 2002.

Resolution 99-0673 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

LAWFUL GAMBLING COMMISSION

Arnold C. Johnson for a term expiring April 30, 2001, replacing David Weidt who resigned.

Resolution 99-0689 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that Earl F. Anderson, Inc., be and hereby is awarded a contract for furnishing and delivering playground equipment for Cascade Park for the community development & housing division in accordance with specifications on its low specification bid of \$34,100.24, terms net 30, FOB destination, payable out of CDBG Fund 262, Dept./Agency 622, Object 6206.

Resolution 99-0662 was unanimously adopted.

Approved September 13, 1999

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 Teak Avenue between Central Entrance and Central Entrance Alley, legally described as: the southerly 45 feet of the northerly 55 feet of the westerly 15 feet of Teak Avenue adjoining

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Lot 16, Block 6, Duluth Heights Fifth 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 25, 1999, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of: the southerly 45 feet of the northerly 55 feet of the westerly 15 feet of Teak Avenue adjoining Lot 16, Block 6, Duluth Heights Fifth Division and as more particularly described on Public Document No. 99-0913-17.

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

Resolution 99-0676 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of 50th Avenue East between Oneida Street and Glenwood Street legally described as: 50th Avenue East adjoining Lot 291, Block 26, Lot 292, Block 27, Lot 339 Block 30 and Lot 340, Block 31, Crosley Park Addition to Duluth; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its August 25, 1999, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of 50th Avenue East adjoining Lot 291, Block 26, Lot 292, Block 27, Lot 339, Block 30 and Lot 340, Block 31, Crosley Park Addition to Duluth described above and as more particularly described on Public Document No. 99-0913-18.

BE IT FURTHER RESOLVED, that a 20 foot wide easement, ten feet each side of the centerline of said 50th Avenue East be retained for pedestrian and utility purposes.

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

Resolution 99-0677 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth established certain 1996 and 1999 CDBG accounts; and

WHEREAS, the citywide citizen's advisory committee (CCAC) for the CDBG program passed a resolution recommending funding changes as set forth below.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund transfers in the Federal Program Fund 262-1996 and 1999 HUD-funded community development accounts as set forth below:

<u>1996 and 1998 CDBG Transfers</u>				
Account revised - 1996				
<u>Project #</u>	<u>Project</u>	<u>Budget Amt</u>	<u>New Amt</u>	<u>Amt of Increase or Decrease</u>
6935 ('96)	Contingency	\$14,000	\$5,000	(\$9,000)
Transferred use - 1999				
6213 ('99)	West Duluth park improvements	\$78,674	\$87,674	\$9,000

Resolution 99-0688 was unanimously adopted.
 Approved September 13, 1999
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to Agreement No. 18132, a copy of which is on file in the office of the city clerk as Public Document No. 99-0913-19, with the Duluth Graduate Medical Education Council, Inc., for the improvement and operation of the Duluth Family Practice Center increasing the amount thereof by not to exceed \$300,000, payable from the capital improvement fund.

Resolution 99-0692 was unanimously adopted.
 Approved September 13, 1999
 GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that A. W. Kuettel & Son, Inc., is authorized Change Order #2 to Contract #C18467 for \$7,094.15, from Capital Fund 450, Dept./Agency 015, Org. 1999, Obj. C910, in connection with reroofing of various city buildings.

Resolution 99-0679 was unanimously adopted.
 Approved September 13, 1999
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

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 \$225,260 for the period July 1, 1999, through June 30, 2000. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 99-0913-20.

FURTHER RESOLVED, that monies received shall be deposited in Fund 270, Budget Item 6328.

Resolution 99-0669 was unanimously adopted.
 Approved September 13, 1999
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to accept on behalf of the city of Duluth, pursuant to the Laws of Minnesota, 1967, Chapter 374, a National Senior Citizens Education and Research Center (N.S.C.E.R.C.) EXTRAide grant in the amount of \$5,200 for the period August 25, 1999, through June 30, 2000. A copy of this agreement is on file in the city clerk's office as Public Document No. 99-0913-21.

FURTHER RESOLVED, that amounts received pursuant to this grant be deposited in Fund 270, Budget Item 6343.

Resolution 99-0670 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, a copy of which shall be on file with the city clerk's office as Public Document No. 99-0913-22, with St. Louis County to provide services under the Minnesota family investment program (MFIP) at costs not to exceed \$3,100 per participant, food stamp employment and training (FSET) services at costs not to exceed \$400 per participant, and food stamp employment and training (FSET) start work services for costs not to exceed \$23,809.52. Contract dates shall run from July 1, 1999, through June 30, 2000.

FURTHER RESOLVED, that monies received under this agreement shall be deposited in Fund 269, Budget Items 6270 and 6271.

Resolution 99-0671 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the state of Minnesota department of health for the benefit of the Duluth Family Practice Center in the amount of \$300,000, said sum to be deposited in the Capital Improvement Fund 450, Agency 015, Org. 1998, and to execute the grant agreement on file in the office of the city clerk as Public Document No. 99-0913-23 pertaining thereto.

Resolution 99-0691 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that United Piping, Inc., be and hereby is awarded a contract for construction of a three inch gas main in Haines Road from Arrowhead Road to Swan Lake Road and from 960 feet south of Maple Grove Road to 1,180 feet southerly for the water and gas department in accordance with specifications on its low specification bid of \$36,766, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 99-0693 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

BY COUNCILOR SWAPINSKI:

BE IT RESOLVED, that the proper city officials are authorized to pay \$46,457.24 to Rajiv Vaidyanathan in settlement of all claims arising out of a sewer backup on July 5, 1999; payment to be made from self-insurance fund.

Resolution 99-0661 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete design engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for preliminary testing and investigation; bridge plans and special provisions for replacement of Bridge L6128 located on Skyline Boulevard at Keene Creek; and

WHEREAS, LHB Architects and Engineers, 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 LHB Engineers and Architects, Inc., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$24,631, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2137, Object 5303.

Resolution 99-0675 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement with the state of Minnesota for the construction of a traffic control signal system at 40th Avenue East and London Road (TH 61), and to remove existing pavement markings and install new pavement messages and pavement markings on London Road (TH 61) from 26th Avenue East to 60th Avenue East within the corporate limits of Duluth under state Project No. S.P. 6925-112, city of Duluth Project No. S.A.P. 118-166-02; said agreement file as Public Document No. 99-0913-25. The city's cost in this project, which is estimated to be \$96,070.50, is payable out of Permanent Improvement Fund 411, Agency 035, Org. 2128, to be reimbursed from the municipal state aid construction fund.

Resolution 99-0678 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Eggebrecht Chevrolet GEO, Inc., be and hereby is awarded a contract for furnishing and delivering a 1999 Chevrolet construction van with compressor, generator, crane and rail lift gate for the sewer division in accordance with specifications on its low specification bid of \$62,666.73, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 99-0694 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved September 13, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Morton International, Inc., be and hereby is awarded a contract for furnishing and delivering road salt during the 1999/2000 winter season for the street maintenance division in accordance with specifications on its low specification bid of \$295,601, terms net 30, FOB jobsite, estimated amount of \$103,872 payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5233 for the 1999 budget and \$191,729 payable out of the year 2000 budget subject to the city council approval.

Resolution 99-0695 was unanimously adopted.

Approved September 13, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the proper city officers are authorized and directed to execute an agreement between the city of Duluth and the Miller-Dwan Medical Center for the furnishing of chemical health specialists from July 1, 1998, to June 30, 2000; for a consideration of not to exceed \$10,000 for the period from July 1, 1998, to June 30, 1999, payable out of Fund 268, Org. 6224; and \$10,250 for the period from July 1, 1999, to June 30, 2000, payable from Fund 268, Org. 6234.

Resolution 99-0687 was unanimously adopted.

Approved September 13, 1999
GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

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 2000 for general operations is hereby determined to be the sum of \$6,773,200, 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. There will be levied for the support of the general fund the sum of \$2,914,300.

Section 3. For the payment of debt, there will be levied for the general obligation debt fund the sum of \$3,468,900.

Section 4. That pursuant to laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$390,000.

Resolution 99-0681 was unanimously adopted.

Approved September 13, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that pursuant to Minnesota Statutes, Sec. 275.065, the city council adopts the following proposed property tax levy.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Section 1. The sum to be raised by taxation for the year 2000 for Duluth Transit Authority operations is hereby determined to be the sum of \$1,737,600, which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following section, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458A.31, Subd. 1, there will be levied for transit operations the sum of \$1,737,600.

Resolution 99-0682 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

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 2000 for Seaway Port authority operations is hereby determined to be the sum of \$284,900, which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following section, viz:

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 \$284,900.

Resolution 99-0683 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

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, 2000:

		<u>GENERAL</u>	
010	Total legislative and executive	-----	\$ 1,575,500
015	Total administrative services	-----	\$ 3,668,300
020	Total planning and development	-----	\$ 2,013,800
030	Total finance	-----	\$ 2,683,900
100	Total fire	-----	\$11,950,000
200	Total police	-----	\$12,242,200
300	Total library	-----	\$ 3,699,200
400	Total parks and recreation	-----	\$ 2,401,200
500	Total public works	-----	\$13,556,900
700	Total transfers	-----	\$ 7,693,600
100	General fund total	-----	\$61,484,600
		<u>PUBLIC ENTERPRISE</u>	
503	Golf fund - total	-----	\$ 1,952,400
		<u>PUBLIC UTILITIES</u>	
510	Water fund - total	-----	\$ 9,918,800
520	Gas fund - total	-----	\$31,683,400

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

530	Sewer fund - total -----	\$16,357,700
535	Stormwater fund total -----	\$ 3,045,200
540	Steam fund - total -----	\$ 3,351,100

Resolution 99-0684 was unanimously adopted.
Approved September 13, 1999
GARY L. DOTY, Mayor

- - -

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 review the city's final budget of 2000 and final city property tax levy for taxes payable in 2000:

December 6 at 7:00 p.m. in the Duluth City Council Chambers.

Resolution 99-0685 was unanimously adopted.
Approved September 13, 1999
GARY L. DOTY, Mayor

- - -

Resolution 99-0667, by Councilor Rapaich, confirming appointment of John Goldfine to Spirit Mountain recreation area authority replacing William Zimbinski, was introduced for discussion.

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

- - -

Resolution 99-0672, by Councilor Rapaich, confirming appointments of John Staine and Rodney Barnes to human rights commission replacing Lorene Glenn and Kevin Galazen, was introduced for discussion.

Councilor Rapaich moved to table the resolution for interviews, which motion was seconded and unanimously carried.

- - -

Resolution 99-0698, by Councilor Prettner Solon, authorizing application for and acceptance and expenditure of EcoLinks funds for development of an environmental management system for Rouse, Bulgaria, and Giurgiu, Romania, was introduced for discussion.

To Councilor Hales' questions regarding the legal aspect of the city participating in this type of agreement, City Attorney Dinan noted that there are no legal conflicts with this type of agreement, noting that it is similar to the city's participation in the sister city program.

Administrative Assistant Hartl noted the memo attached to the resolution from Tom Cotruvo, business development division, regarding the extent of the city's participation and costs.

Resolution 99-0698 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to execute an application, a copy of which is on file in the office of the city clerk as Public Document No. 99-0913-16, for EcoLinks funding from United States agency for international development for the development of an environmental management system for the cities of Rouse, Bulgaria, and Giurgiu, the Republic of Romania, in partnership with those cities.

FURTHER RESOLVED, that said officials are hereby authorized to accept funds granted by said agency pursuant to said application, which funds shall be deposited in Fund 210, and to expend said funds, all in conformance with the budget attached to said application.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0698 was unanimously adopted.
Approved September 13, 1999
GARY L. DOTY, Mayor

- - -

Resolution 99-0690, by councilors Gilbert and Swapinski, authorizing an agreement with Camp, Dresser & McKee to provide technical assistance in the modification of the stormwater utility rate structure, was introduced for discussion.

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

Lisa Crosby, a city resident who lives in the rural area, noted that she and her neighbors are not connected to the city stormwater or water system. She asked that areas like her property be identified as primarily undeveloped so these owners could qualify for the same exemptions as undeveloped landowners have. In addition, Ms. Crosby suggested that there be no charge for delinquent assessments for exempted property; that criteria for exemptions be fair; that rural residents be treated with more respect and that the city avoid hiring outside consultants without better public input.

Lynn Youngblom stated that she has a nine page list of owners who have not paid their stormwater utility bill yet, noting that a majority of them are rural residents who do not benefit from the service that the fee is being charged for.

Todd Pfeffer, a resident who does not have a sanitary sewer or stormwater utility, stated that he requests support for the resolution.

Gary Nicholson, president and general manager of Lake Superior Warehousing Company, Inc., reviewed the comments of his letter (Public Document No. 99-0913-24(b)).

Davis Helberg, executive director of the Seaway Port authority of Duluth, noted his support for the comments of Mr. Nicholson. He added that the issue is one of fairness.

To councilor comments, Mr. Helberg noted that with them being at the base of the stormwater system, they are not contributing to any area further down the system and have engaged an engineering firm to review their own water runoff aspects.

Paul Cerkvenik, attorney for Lake Superior Warehousing Company, Inc., voiced support for Ordinance 99-023, noting that the changes purported for rural residents be considered for his client and other port authority tenants.

Councilor Hogg noted that while the previous three comments have been appreciated, that issue is covered by Ordinance 99-023, not the resolution before the council now.

Russ Myers noted that his property is not connected to the city stormwater system and questioned why he was being assessed for something that he is not connected to; adding that his property drains into Amity Creek and then directly into Lake Superior.

Jerome Carlson expressed his support that this resolution will address the concerns of the rural residents.

Jeanette Olson stated that she does not have city water or sewer and voiced support for the council's consideration of exempting the rural residents.

Councilor Swapinski noted that it was felt that the council would consider this resolution the same time that Ordinance 99-023 would be considered. He moved to table the resolution, which motion was seconded and unanimously carried.

- - -

Resolution 99-0700, by councilors Gilbert and Swapinski, expressing concern for the safety and working conditions of people employed at ME International, was introduced for discussion.

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

Sammy James Differding, member of United Steelworker Local #1028 and an employee of ME International, voiced his support for the council passing this resolution, noting that the employees' issues are about working conditions, specifically safety related, and not about economic issues or wages.

Councilor Hogg noted his support of the speaker making his comments to the city council and that he personally has the same concerns as the speaker, but stated that he does not agree that a city council resolution is an appropriate subject for the council to address, in that the council, in addressing a labor dispute, could never know the details of both sides in the dispute. He moved to remove the resolution from the agenda, which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Hales, Hogg, Prettnner Solon, Rapaich and President Keenan -- 6

Nays: Councilors Fena, Gilbert and Swapinski -- 3

- - -

Resolution 99-0699, by councilors Swapinski and Rapaich, adopting the wastewater collection system feasibility plan for the Fond du Lac area, was introduced for discussion.

Mr. Hartl noted that, in responding to some councilors' concerns over the terminology of the resolution, the Minnesota pollution control agency (MPCA) stated that they are supportive of the current form of the resolution.

Councilor Rapaich reviewed the document (Public Document No. 99-0913-04) that she distributed about the history of Fond du Lac.

Councilor Hogg noted that the MPCA will approve this if the city goes with Alternative No. 1, even though the consultant had recommended Alternative No. 2.

Resolution 99-0699 was adopted as follows:

BY COUNCILORS SWAPINSKI AND RAPAICH:

WHEREAS, Ayres Associates has developed a feasibility plan for a wastewater collection system for the Fond du Lac area;

WHEREAS, the city of Duluth desires to obtain funding from the state of Minnesota to implement the plan; and

WHEREAS, state law requires that the city adopt the feasibility plan in order to receive state funding for the project;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby adopts the wastewater collection system feasibility plan for the Fond du Lac area, which is on file in the office of the city clerk as Public Document No. 99-0913-26.

Resolution 99-0699 was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0697, by Councilor Hales, authorizing the establishment of a fee structure for animal licenses and animal related activities which require a license pursuant to Chapter 6 of the Duluth City Code, was introduced for discussion.

Councilor Edwards voiced her concern over the last paragraph, which she can not support, and therefore would not support the entire resolution.

Councilor Swapinski reviewed that he had previously had this last paragraph in the prior fee resolution, and thus with this fee change, wished to continue that same intent.

Councilor Hales noted that the last paragraph is only a request and any formal action needs the legislature to change the state statutes that requires this form of destruction.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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

Kay L. Lewis noted that with new technology, a small computer chip can be installed under the skin of the animal to determine ownership, and questioned if the dog pound was checking for this on animals that are picked up.

Councilor Fena voiced support for the goal of what can be achieved with the research of using animals that have been abandoned and would die. She moved to delete the last paragraph from the resolution, which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Fena, Gilbert, Hales, Hogg, Prettner Solon, Rapaich and President Keenan -- 8

Nays: Councilor Swapinski -- 1

Resolution 99-0697, as amended, was adopted as follows:

BY COUNCILOR HALES:

RESOLVED, that pursuant to Chapter 6 of the Duluth City Code, the city council authorizes the following license fee structure:

Animal license fees for the city of Duluth

	<u>Fees effective</u>	<u>Fees effective</u>
<u>License description</u>	<u>9-19-99</u>	<u>12-01-99</u>
1. Animal shelter license (city shelter exempt)	\$ 2.50	\$ 2.50
2. Boarding kennel license:		
3-11 animals	\$ 17.50	\$ 62.50
12 or more animals	\$ 57.50	\$ 97.50
3. Breeding kennel license:		
2-5 animals	\$ 15.00	\$ 62.50
6-11 animals	\$ 20.00	\$ 97.50
12 or more animals	\$ 60.00	\$197.50
4. Grooming shop license	\$ 62.50	\$ 62.50
5. Maximum dog and/or cat exception license (one license will cover any combination of animals)	\$ 2.50	\$ 2.50
6. Nuisance wildlife removal business	\$ 62.50	\$ 62.50
7. Pet license:		
altered animal	\$ 3.00	\$ 2.50
unaltered animal	\$ 8.00	\$ 2.50
8. Pet shop license	\$ 50.00	\$ 62.50
9. Veterinary hospital license	\$ 25.00	\$ 62.50

[above fees do not include a city clerk charge required under D.C.C. §31-6(a)]

All above listed licenses shall be issued on a yearly basis. Each license shall be in effect beginning on the first day of January and expiring on the last day of December of that calendar year. All above listed licenses issued after the first day of January and before the last day of December shall expire on the last day of December of that same calendar year. For new residents and new businesses or individuals starting to engage in any of the above listed activities which require a license, license fees are due and payable when such individual begins residency or when a business or practice opens its doors to the public for the purpose of engaging in an activity

for which a license is required in Duluth. Whenever a new license for which the fee is \$50 or more is issued during the license year, the fee for the new license shall be prorated on a quarterly basis.

RESOLVED FURTHER, that pursuant to Chapter 6 of the Duluth City Code, the city council authorizes the following license fee structure:

Animal shelter fees for the city of Duluth

<u>Fee description</u>	<u>Fees effective 9-19-99</u>	<u>Fees effective 12-01-99</u>
1. Daily board fee	\$ 6.00	\$ 10.00
2. Impound fee	\$ 25.00	\$ 25.00
3. Nonresident owner surrender	\$ 10.00	\$ 10.00
4. Resident owner surrender	\$ 3.00	\$ 5.00
5. Rabies deposit	\$ 25.00	\$ 25.00
6. Quarantine fee	\$ 25.00	\$125.00
7. Animals sold to institutions (institution means a school or college of agriculture, veterinary medicine, medicine, pharmacy or dentistry, or an educational or scientific establishment properly concerned with investigation or instruction concerning the structure or functions of living organisms or the cause, prevention, control or cure of diseases or abnormal conditions of human beings or animals)	\$200.00	\$200.00

RESOLVED FURTHER, that the city council hereby requests that the Duluth animal shelter only surrender animals to institutions when the owners of such animals have given their approval to do so after having been given information regarding the type and nature of the research that may be performed on them.

Resolution 99-0697, as amended, was unanimously adopted.

Approved September 13, 1999

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILORS GILBERT AND SWAPINSKI

99-023 - AN ORDINANCE EXEMPTING CERTAIN RURAL RESIDENTIAL PROPERTY FROM STORMWATER UTILITY FEES; AMENDING SECTIONS 43-65 AND 43-66 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Hogg reviewed that while there was a speaker from Lake Superior Warehousing Company, Inc., earlier, the council also received a letter (Public Document No. 99-0913-24(a)) from Georgia-Pacific Corporation and noted that businesses like this that are at the bottom of the runoff chain should not have to pay a stormwater utility fee.

Councilor Prettner Solon noted that citizens have to look more globally at these types of issues, in that no one creates the water received from rains, but there is a social obligation to

insure clean water. She noted that this is similiar to paying your taxes for public education, even if one has no students.

Councilor Gilbert noted that this is not a tax, but a utility fee and that there is a distinction between this and a taxing issue.

- - -

COUNCILOR QUESTIONS AND COMMENTS

Councilor Hogg noted that the report dated August 17, 1999, from the Great Lakes Aquarium states that for this year the revenues are \$205,000 above what was budgeted and that the expenses are \$215,000 below what was budgeted, showing that this project is going well at this time.

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The meeting was adjourned at 8:55 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council meeting held on Monday, September 20, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Fena, Hales, Hogg, Prettner Solon, Rapaich and President Keenan -- 7

Absent: Councilors Gilbert and Swapinski -- 2

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR EDWARDS:

WHEREAS, on September 14, 1999, 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. 99-0920-01) at 7:30 p.m., September 20, 1999, and ascertained the number of ballots cast at said election and thereby declared that at said election there were 14,390 cast votes, said votes having been cast in the following manner:

Mayor

William Calvert	78
Jon Louis Donahue	186
Gary L. Doty	7,372
Greg Gilbert	4,353
Carl Hammerberg, Sr.	115
Davy Jones	155
Michale Kaipainen	98
Aaron A. Trompeter	93
John F. Young	1,826

Councilor at Large

Herb W. Bergson	6,429
Ken Hogg	7,032
Bill Lassi	815
Donny Ness	4,496
Eric J. Ringsred	2,681
Fred Youngstrand	2,244

Councilor - Third District

Marcia Hales	754
Russ Stewart	913
Betty Stucke	426

NOW, THEREFORE, BE IT RESOLVED, that Gary L. Doty and Greg Gilbert, having received the two largest numbers of the votes cast at said election for mayor, 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

BE IT FURTHER RESOLVED, that Herb W. Bergson, Ken Hogg, Donny Ness and Eric J. Ringsred, having received the four largest numbers of the votes cast at said election 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 Marcia Hales and Russ Stewart, having the two largest numbers of the votes cast at said election for councilor - third 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 99-0702 was unanimously adopted.

Approved September 20, 1999

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 7:35 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 27, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Fena, Gilbert, Hales, Hogg, Prettner Solon, Swapinski and Vice President Rapaich -- 8

Absent: President Keenan -- 1

- - -

The minutes of council meetings held on July 12, 19 and 26, 1999, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-0927-10 Miller Hill Dental, et al. (three signatures) submitting petition to rezone from R-1-b, C-5 and S to C-5 that part of SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 18, T50N, R14W, lying westerly of Sundby Road, easterly of Miller Creek, northeasterly of U.S. Highway 53 and northerly of property described on Certificate No. 252425 and located between Miller Trunk Highway and Sundby Road, east of Page Street. -- Assessor

99-0927-01 Minnesota state auditor submitting:

(a) Audit report for Spirit Mountain recreation area authority for the years ended April 30, 1999 and 1998;

(b) Management and compliance reports of:

(1) City of Duluth for the year ended December 31, 1998;

(2) Western Lake Superior Sanitary District for the year ended December 31, 1998. -- Received

99-0927-11 Lake Superior Warehousing, Inc., submitting letter of opinion from Paul Cerkvenik, attorney, regarding stormwater utility fees (99-023-O). -- Received

99-0927-21 Heather Odden submitting letter regarding invisible pet fencing (99-026-O). -- Received

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REPORTS OF OFFICERS

99-0927-12 Mayor Doty submitting copy of letter sent to the environmental advisory council regarding stormwater utility fees (99-023-O). -- Received

99-0927-02 Engineering division submitting monthly project status report for September 1, 1999. -- Received

99-0927-03 Parks and recreation department director submitting Lake Superior Zoological Society: (a) Financial statements for July and August, 1999; (b) Minutes of July 22, 1999, meeting. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-0927-04 Environmental advisory council submitting copy of letter sent to Mayor Doty regarding stormwater utility fees (99-023-O). -- Received

99-0927-05 Heritage preservation commission minutes of August 11, 1999, meeting. -- Received

99-0927-06 Housing and redevelopment authority minutes of: (a) June 29; (b) July 27, 1999, meetings. -- Received

99-0927-07 Planning commission minutes of August 25, 1999, meeting. -- Received

99-0927-08 Special assessment board minutes of: (a) August 10; (b) September 7, 1999, meetings. -- Received

99-0927-22 Western Lake Superior Sanitary District submitting comprehensive annual financial report for the year ended December 31, 1998. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Bruce Lotti, president of the United Steelworkers of America, reviewed that the council previously passed a resolution dealing with the strike at the Firestone plant. He continued by saying that the ME International (MEI) strike is a community issue and the workers are community members, and that the parent company is not local and has a history of labor disputes. Mr. Lotti went on to say that a resolution of support would be encouraging for the workers and send a message to the parent plant of the city's support.

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Sam Differding spoke to attract attention to the trouble the MEI steelworkers have trying to improve safety measures at their plant and he believes the council should support their cause. He stated that the steelworkers have legitimate issues and the council needs to be responsible to the community.

- - -

Tom Bernard spoke regarding pedestrian rights at Sixth Avenue East and Fourth Street, and that there are only seven seconds for pedestrians to get across the street, which he stated is too short of a time. He added that it is dangerous for people crossing the street when cars turn right on a red light, as the drivers are not looking for pedestrians on the right side since the driver is always looking left.

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Peggy Marrin voiced her pleasure that the mayor and council supported the MEI rally last week, and stated that the council should reintroduce a resolution to support the union.

- - -

Yvonne Stewart expressed concern that the city has been without a planning and development department director for over a year, and if that position is eliminated, planning will be under the development office. She emphasized that planning needs to be done first before the development takes place and the city needs a planner to develop and administer a comprehensive plan and the community unit plans.

- - -

Peggy Marrin informed the council that there will be a meeting of the Bayfront vision group on Monday, October 11, at which time the results of the group's study will be released.

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RESOLUTIONS TABLED

Councilor Hogg moved to remove Resolution 99-0667, confirming appointment of John Goldfine to Spirit Mountain recreation area authority replacing William Zimbinski; and Resolution 99-0672, confirming appointments of John Staine and Rodney Barnes to human rights commission Replacing Lorene Glenn and Kevin Galazen, by Councilor Rapaich, from the table, which motion was seconded and unanimously carried.

Resolution 99-0667 was adopted as follows:

BY COUNCILOR RAPAICH:

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

SPIRIT MOUNTAIN RECREATION AREA AUTHORITY

John Goldfine for a term expiring June 30, 2002, replacing William Zimbinski.
Resolution 99-0667 was unanimously adopted.
Approved September 27, 1999
GARY L. DOTY, Mayor

- - -

Resolution 99-0672 was adopted as follows:
BY COUNCILOR RAPAICH:
RESOLVED, that the following appointments by Mayor Doty be and the same are hereby confirmed:

HUMAN RIGHTS COMMISSION

John Staine for a term expiring March 1, 2002, replacing Lorene Glenn.
Rodney Barnes for a term expiring March 1, 2002, replacing Kevin Galazen who resigned.
Resolution 99-0672 was unanimously adopted.
Approved September 27, 1999
GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and on sale Sunday license, for the period ending August 31, 2000, subject to departmental approvals and the payment of sales and property taxes:

Scanlon River Inn (Pioneer Bar), 323 West First Street, with Steve Kiminski, 100 percent stockholder, transferred from T.A.D. Inc. (Pioneer Bar), same address.

Resolution 99-0713 was unanimously adopted.
Approved September 27, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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

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

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

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

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

	<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
1.	Duluth Amateur Youth	Player's Grandstand	September 14, 1999

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Basketball Association

- | | | | |
|----|---|------------------------------------|------------------------------------|
| 2. | American Red Cross | Congress Bar
Shotz Bar | September 3, 1999 |
| 3. | Irving Community Club | Mitch's Bar
Gopher Bar & Lounge | September 3, 1999 |
| 4. | Irving Youth Hockey Club | North Pole Bar | August 26, 1999 |
| 5. | National Multiple
Sclerosis Society | VFW Post #6320
Curly's Bar | August 26, 1999
August 26, 1999 |
| 6. | Northland Vietnam
Veterans Association | Rustic Bar
Kom-On-Inn | August 23, 1999 |

Resolution 99-0715 was unanimously adopted.
Approved September 27, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of athletic turf maintenance coordinator, which were approved by the civil service board on September 1, 1998, which are filed with the city clerk as Public Document No. 99-0927-13, are approved, that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range shall remain the same, pay range 30, \$2,868 to \$3,427 per month.

Resolution 99-0686 was unanimously adopted.
Approved September 27, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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 September 7, 1999, which are filed with the city clerk as Public Document No. 99-0927-14, are approved, that said classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees, that the pay range shall remain the same at pay range 1140, pay rate \$5,058 to \$6,169 per month.

Resolution 99-0701 was unanimously adopted.
Approved September 27, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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 September 7, 1999, and which are filed with the city clerk as Public Document No. 99-0927-15, are approved, that said classification shall be subject to the city's collective bargaining agreement with its fire unit employees, that the pay range and rate shall remain unchanged, pay range 229, pay rate \$3,946.

Resolution 99-0705 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved September 27, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Sherry Kasper has submitted to the city council a request for a special use permit for a home beauty salon on property located at 3725 Greysolon Road described as: Part of Lot 25, Block 14 except the west 30 feet and including that part of vacated 37th Avenue East and including that part of Lots 4 and 5, Block 13, lying south of a line drawn from a point 100 feet east of the southwest corner of Lot 25, Block 14 and at right angles to center line of Greysolon Road to a point 183 feet northwest of said center line thence southwesterly at right angles to said line to the west line of Lot 5, Block 13, all in the Rearrangement of Part of East Duluth and First Addition to East Duluth; 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 Sherry Kasper to allow for the operation of a home beauty salon at 3725 Greysolon Road, on the following conditions:

- (a) That the operation be limited to and maintained in perpetual compliance with Section 51-35(r) and in accordance with the plans as identified as Public Document No. 99-0927-20;
- (b) That the necessary inspections are received; and
- (c) That the term of the permit run for two years at which time renewal may be considered.

Resolution 99-0708 was unanimously adopted.
Approved September 27, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of Tenth Avenue East legally described as: the easterly three feet of Tenth Avenue East adjoining the southerly 56-2/3 feet of Lot 1, Block 161, Ray's Annex to Portland 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 September 14, 1999, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of a portion of Tenth Avenue East described above, and as more particularly described on Public Document No. 99-0927-16.

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 avenue to be vacated.

Resolution 99-0709 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved September 27, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, pursuant to Minnesota Statutes, Sections 462A.221 through 462A.225 (the "act"), the city of Duluth, Minnesota (the "city") is a suballocator of low income housing tax credits (LIHTCs); and

WHEREAS, it is anticipated that the city's 2000 allocation of LIHTC will be \$163,617; and

WHEREAS, in accordance with Section 42 of the Internal Revenue Code of 1986, as amended (the "code"), the city has adopted a qualified allocation plan (the "plan") for 2000 setting forth criteria governing the award of the city's LIHTCs; and

WHEREAS, the city has received three complete applications for the LIHTCs: an application of Sherman Associates for its West Duluth Townhomes requesting an allocation of 2000 LIHTCs in the amount of \$163,617; an application of Housing Partners of Duluth for its Spirit Lake Manor requesting an allocation of 2000 LIHTCs in the amount of \$163,617; and an application of Center City Housing Corporation for its Hillside Initiative requesting an allocation of \$163,617 (the "projects"); and

WHEREAS, the applications for the projects have been scored in accordance with the plan; and

WHEREAS, the Duluth housing commission has recommended allocating 2000 LIHTCs to Sherman Associates in the amount of \$163,617 for the West Duluth Townhomes project and has further recommended that the West Duluth Townhomes project, as the highest ranking project, be the city's first priority LIHTC project for 2000; and

WHEREAS, the Duluth housing commission has recommended that in the event the West Duluth Townhomes project does not go forward that the Spirit Lake Manor and Hillside Initiative projects be considered for 2000 LIHTCs; and

WHEREAS, it is anticipated that the LIHTC requested for the West Duluth Townhomes project exceeds the city's 2000 allocation of LIHTC; and

WHEREAS, the city has entered into a joint powers agreement (the "agreement") with the Minnesota housing finance agency ("MHFA"), pursuant to which MHFA has agreed to allocate its LIHTCs to the city's highest ranking project, if the project requires an allocation of LIHTCs in excess of the amount reserved for the city; and

WHEREAS, the amount of allocation of LIHTCs requested for the West Duluth Townhomes project is in excess of the amount reserved for the city.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

1. The city hereby finds and determines that the applications for the projects are complete in all material respects and meet the selection criteria set forth in the plan.

2. The request for 2000 LIHTC allocations in the amount of \$163,617 for the West Duluth Townhomes project does not exceed the amount which is necessary for the project's financial feasibility and viability as qualified low-income housing projects throughout the ten year credit period.

3. In making the determination set forth above, the city considered the following with respect to the applications submitted:

- a) the sources and uses of funds and the total financing planned for the projects;
- b) any proceeds or receipts expected to be generated by reason of tax benefits;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

c) the percentage of the housing credit dollar amount used for costs of the projects other than the cost of intermediaries; and

d) the reasonableness of the developmental and operational costs of the projects.

4. The city council of the city of Duluth hereby expresses its intent to allocate \$163,617 of the city's 2000 LIHTC allocation to Sherman Associates for the West Duluth Townhomes project.

5. In accordance with the recommendations of the Duluth housing commission, the West Duluth Townhomes project, as the highest ranking project, is hereby designated the city's first priority LIHTC project for 2000.

6. In accordance with the recommendations of the Duluth housing commission, in the event the West Duluth Townhomes project does not go forward, the Spirit Lake Manor and Hillside Initiative projects will be considered for 2000 LIHTCs.

7. Staff is authorized and directed to work with MHFA and Sherman Associates to secure an allocation in the anticipated amount of \$37,040 of MHFA's 2000 LIHTCs for the West Duluth Townhomes.

Resolution 99-0712 was unanimously adopted.

Approved September 27, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

<u>File #</u>	<u>Applicant Name</u>	<u>Location</u>
99-0713	Western Charles 327 and Lemon	Upper side of Superior Street between 20th and 21st Avenue West (Lincoln Park)
99-0712	County Land Department	Norton's Steel Plant Division (10-5130, 5140) Court at intersection with 98th Avenue West (Gary New-Duluth)
99-0714	County Land Department	Blisk 49, Gary First Division (10-12980) West side of 129th Avenue West between House and McGonagle streets (Gary New- Duluth)
99-0715	County Land Department	Blisk 10, Sieburn Division (10-2290, 2300) Street west of 37th Avenue West (Denfeld)

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:

99-0716	Kevin Hinnenkamp	West side of 145th Avenue West north of Burlington Northern tracks (Gary New-Duluth)
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Resolution 99-0717 was unanimously adopted.
 Approved September 27, 1999
 GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the city of Duluth is authorized to enter into a subgrant agreement with the division of emergency management of the Minnesota department of public safety for a program entitled Infrastructure Program for FEMA 1283 DR-Minnesota.

RESOLVED FURTHER, that the mayor is hereby authorized to execute and sign such subgrants, agreements and amendments as are necessary to implement the project on behalf of the city of Duluth.

Resolution 99-0716 was unanimously adopted.
 Approved September 27, 1999
 GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that United Piping, Inc., be and hereby is awarded a contract for the construction of a two inch gas main for the department of public works and utilities in accordance

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

with specifications on its low specification bid of \$68,172.50, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 99-0720 was unanimously adopted.

Approved September 27, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete design engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to design phase for Trinity Road/Central Entrance intersection and Trinity Road turn lanes; and

WHEREAS, Short Elliot Hendrickson, 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 Short Elliot Hendrickson, Inc., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$140,115, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2143, Object 5303.

Resolution 99-0674 was unanimously adopted.

Approved September 27, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to accept and execute a real estate use permit from the U.S. Army Corps of Engineers, said permit filed as Public Document No. 99-0927-17, authorizing the city and its contractor to use certain U.S. army corps of engineers' real property in conjunction with the renovation of the Aerial Lift Bridge.

RESOLVED FURTHER, that the city of Duluth agrees to indemnify and hold harmless the U.S. army corps of engineers and certifies that it will, through its self insurance program, provide coverage for the U.S. army corps of engineers in the amount of \$3,000,000 for comprehensive liability, bodily injury and property damage as required in said permit.

RESOLVED FURTHER, that the \$775 permit fee shall be paid from Fund No. 411, Agency 035, Org. 2102, Object 5520.

Resolution 99-0706 was unanimously adopted.

Approved September 27, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 99-0344 to Hallett Dock Company for furnishing additional requirements of class 5 limestone be amended to increase the amount by \$12,000 for a new total of \$32,024.66, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5224.

Resolution 99-0723 was unanimously adopted.

Approved September 27, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking during school days, 7:00 a.m. to 4:00 p.m. zone is hereby established:

West side of 59th Avenue West from Raleigh Street to 200 feet northerly.

Resolution 99-0719 was unanimously adopted.

Approved September 27, 1999

GARY L. DOTY, Mayor

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Resolution 99-0714, by Councilor Edwards, approving the transfer of the on sale intoxicating liquor license of Danricco, LTD, (Bella Vita Ristorante), 21 North Fourth Avenue West, transferred to A & L Partnership, LLP, 11 East Superior Street, and approving an application for an on sale Sunday license for A & L Partnership, LLP, 11 East Superior Street, was introduced for discussion.

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

Herb Bergson expressed his objection to a bar and restaurant going into a building that is supposed to house 1,500 technical jobs, which is using public tax dollars to help a private bar and restaurant business.

Councilor Hogg suggested a copy of the development agreement be given to him so he will have a better understanding of the project and the terms of the agreement.

K.L. Lewis urged councilors to consider that the license be used by a businessman that is actively generating sales taxes and that is in that business instead of giving it to someone who cannot use it until the building is constructed.

Councilor Fena reviewed that in the development agreement, the developers have a right to utilize about 20 percent of the space for non-technology businesses on the street level and it is their job to develop that space.

Councilor Prettner Solon reviewed that the developer has put money into the development of the Tech Center and that the city and the Duluth economic development authority (DEDA) have helped with the funding for the site preparation, parking ramp, skywalk construction and the relocation of the bank.

Councilor Swapinski questioned if it is somewhat customary to transfer a license to a proposed development versus an established business.

Assistant City Attorney Smedberg replied that this transfer is a result of A & L Development getting this license through bankruptcy court and the developer has stated that a restaurant will be up and running by the end of the license year. He continued by saying that the council has approved transfers of licenses to proposed developments; as a developer does not want to spend the money on a project unless he knows he has a liquor license for the business.

Councilor Gilbert voiced concern that this transfer is to a nonspecific location in the building, which means it could end up anywhere in the building. He also stated concern that this license will not be used by the end of the license year and was concerned that there would be some arrangements made to allow A & L Development to keep the license for another year. Councilor Gilbert also stated that this transfer sets a bad precedent in issuing a license to people to recover property they rent and leaving the requirements wide open. He stated concern that this license is being given to A & L Development as an inducement to find tenants for their building, which is a bad policy and a bad use of a liquor license.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0714 was adopted as follows:

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and approves the application for an on sale Sunday license, for the period ending August 31, 2000, subject to departmental approvals and the payment of sales and property taxes:

A & L Partnership, LLP, 11 East Superior Street, with L. R. Anderson, 51 percent stockholder, and J. R. Link, 49 percent stockholder, transferred from Danricco, Ltd. (Bella Vita Ristorante), 21 North Fourth Avenue West.

Resolution 99-0714 was adopted upon the following vote:

Yeas: Councilors Edwards, Fena, Hales, Hogg, Prettner Solon, Swapinski and Vice President Rapaich -- 7

Nays: Councilor Gilbert --1

Absent: President Keenan -- 1

Approved September 27, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officers are authorized and directed to execute an agreement, filed as Public Document No. 99-0927-18, leasing to Wireless North, LLC, a 30 foot square space on the Lester Park Golf Course for the installation of a communications pole and equipment for an initial consideration of \$3,600 per year, said money to be deposited in Fund No. 100-500-1950-4612.

Resolution 99-0711 was unanimously adopted.

Approved September 27, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that, pursuant to Resolution No.99-239, the agreement between the Duluth economic development authority (DEDA) and the Greater Downtown Council (GDC) in the amount of \$81,526, as approved by the DEDA board at its meeting of September 21, 1999, pursuant to DEDA Resolution No. 99D-38, a copy of which is on file in the office of the city clerk as Public Document No. 99-0917-19, is hereby approved.

Resolution 99-0725 was unanimously adopted.

Approved September 27, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0718, by Councilor Hales, accepting a gift in the amount of \$50,000 from the Jeno and Lois Paulucci Family Foundation to be used for expenses related to the creation of a new Bayfront Festival Park, was introduced for discussion.

Councilors Hales and Hogg thanked the Paulucci family for their donation to the Bayfront development.

Resolution 99-0718 was adopted as follows:

BY COUNCILOR HALES:

RESOLVED, that the city hereby accepts a gift in the amount of \$50,000 from The Jeno and Lois Paulucci Family Foundation to be used for expenses related to the creation of a new

Bayfront Festival Park, which gift shall be deposited in the Capital Improvements Fund 450 - Bayfront Festival Park.

Resolution 99-0718 was unanimously adopted.
Approved September 27, 1999
GARY L. DOTY, Mayor

- - -

Resolution 99-0710, by councilors Gilbert and Swapinski, of intent to adopt the SFU method of determining fees for the stormwater utility, was introduced for discussion.

Councilor Swapinski moved to table the resolution until October 12, which motion was seconded and unanimously carried.

- - -

Resolution 99-0721, by Councilor Swapinski, awarding contract to construct a Fond du Lac sanitary sewer liftstation, six inch sewer main and ten inch water main for Levine & Sons, Inc., in the amount of \$256,259, was introduced for discussion.

Councilor Hogg reviewed that this is the first step in trying to get water and sewer in the Fond du Lac neighborhood, but voiced his concern about approving plans for the lift station when the sewage plans have not been approved yet for the neighborhood.

Resolution 99-0721 was adopted as follows:

BY COUNCILOR SWAPINSKI:

RESOLVED, that Levine & Son, Inc., be and hereby is awarded a contract for the construction of the Fond du Lac sanitary sewer lift station, six inch sewer main and a ten inch water main for the sewer division and water division in accordance with specifications on its low specification bid of \$256,259, terms net 30, FOB job site, \$175,259 payable out of Community Development Fund 262, Dept./Agency 622, Object 6215 and \$81,000 payable out of Water Construction Bond Fund 511, Dept./Agency 900 and Object 5532.

Resolution 99-0721 was unanimously adopted.
Approved September 27, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept the donation of a police canine from Miner's Super One Foods and Nabisco Pet Division.

Resolution 99-0707 was unanimously adopted.
Approved September 27, 1999
GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR HOGG

99-025 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,745,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

BY COUNCILOR EDWARDS

99-024 - AN ORDINANCE ELIMINATING THE LIMIT ON THE NUMBER OF ON SALE INTOXICATING LIQUOR LICENSES THAT ONE LICENSEE CAN HOLD IN THE CITY OF DULUTH; AMENDING SECTION 8-53, DULUTH CITY CODE, 1959, AS AMENDED.

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

K.L. Lewis stated she was not in favor of this ordinance as it will create a monopoly to form one corporation and has potential to be a dangerous ordinance.

Herb Bergson questioned the reason for the change in the ordinance.

Mr. Smedberg gave a history on the change in the state law, and stated that there was a request to the alcoholic beverage board to change the ordinance to match the state. He continued by saying that the board reviewed the issue and requested input from the on sale liquor owners, and that there was no objection to the change from the liquor industry.

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BY COUNCILOR PRETTNER SOLON

99-026 - AN ORDINANCE AMENDING SECTION 6-36 OF THE DULUTH CITY CODE TO PERMIT THE USE OF UNDERGROUND ELECTRONIC FENCES AS A MEANS OF RESTRAINING ANIMALS.

Councilor Prettner Solon moved to table the ordinance, which motion carried on the following vote:

Yeas: Councilors Edwards, Fena, Gilbert, Hales, Prettner Solon, Swapinski and Vice President Rapaich -- 7

Nays: Councilor Hogg -- 1

Absent: President Keenan -- 1

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BY COUNCILORS GILBERT AND SWAPINSKI

99-023 - AN ORDINANCE EXEMPTING CERTAIN RURAL RESIDENTIAL PROPERTY FROM STORMWATER UTILITY FEES; AMENDING SECTIONS 43-65 AND 43-66 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

K.L. Lewis stated that homeowners should not be billed for services and products that they do not receive.

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

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

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, October 12, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-1012-16 Gregory H. Kaake, D. D. S., submitting further petition adding two signatures to reclassify from R-1-b, C-5, and S to C-5 that part of SE ¼ of SW ¼ of Section 18, T50, R14, lying westerly of Sundby Road, easterly of Miller Creek, northeasterly of U.S. Highway 53 and northerly of property described on Certificate No. 252425 and located between Miller Trunk Highway and Sundby Road east of Page Street. -- Assessor

99-1012-17 Sherri R. Plesko submitting communication regarding ME International (99-0700R). -- Received

99-1012-18 Darlene Virta submitting information regarding the Women's Coalition special use permit. -- Received

99-1012-19 Dane Youngbloom submitting communication regarding stormwater utility fees (99-023-O). - Received

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REPORTS OF OFFICERS

99-1012-01 Assessor submitting:

(a) Affidavits of mailing of notice of public hearings by the special assessment board on Wednesday, October 13, 1999 at:

(1) 4:30 p.m., regarding the reassessment costs for permanent street for Seventh Avenue East from Plum to Kelly and Streets and Hawkins Street from Fern to Cliff Avenues;

(2) 4:45 p.m., regarding proposed improvement of sanitary sewer - two inch grinder pump system in Greysolon Road from 35th Avenue East to 650 feet westerly;

(b) Assessment roll for confirmation levied to defray the assessable portion of construction of Railroad Street from Eighth Avenue West to Garfield (Contract #5299, \$267,570 total assessable). -- Clerk

(c) Letter of insufficiency pertaining to the petition to reclassify from R-1-b, C-5, and S to C-5 that part of SE ¼ of SW ¼ of Section 18, T50, R14, lying westerly of Sundby Road, easterly of Miller Creek, northeasterly of U.S. Highway 53 and northerly of property described on Certificate No. 252425 and located between Miller Trunk Highway and Sundby Road east of Page Street. -- Received

99-1012-02 Clerk submitting applications to the Minnesota gambling control board for exemption from lawful gambling licenses from: (a) Lake Superior Marine Museum Association (raffle) on June 6, 2000; (b) Regents of the University of Minnesota (raffle) on February 5, 2000; (c) St. Margaret Mary Church (bingo) on November 18, 1999; (d) Women's Auxiliary of the Duluth/Superior Symphony Orchestra (raffles) on December 11, 1999, and February 13, 2000. -- Received

99-1012-03 Property manager submitting agreement with the state of Minnesota pertaining to the leasing of St. Croix Station, pursuant to Section 2-35 of the Duluth City Code. -- Mayor for execution

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REPORTS OF BOARDS AND COMMISSIONS

- 99-1012-04 Alcoholic beverage board minutes of: (a) July 14; (b) August 11, 1999, meetings. -- Received
- 99-1012-05 Board of zoning appeals minutes of August 24, 1999, meeting. -- Received
- 99-1012-06 Citywide citizens advisory committee minutes of July 27, 1999, meeting. -- Received
- 99-1012-07 Duluth housing commission and Duluth housing trust fund board minutes of: (a) July 8; (b) August 12, 1999, meetings. -- Received
- 99-1012-08 Housing and redevelopment authority of Duluth minutes of August 31, 1999, meeting. -- Received
- 99-1012-09 Human rights commission minutes of: (a) June 15, 1998; (b) June 17, 1998; (c) July 6, 1998; (d) July 20, 1998; (e) August 31, 1998; (f) October 19, 1998; (g) November 16, 1998; (h) December 7, 1998; (i) January 11, 1999; (j) February 8, 1999; (k) May 17, 1999; (l) June 14, 1999; (m) September 13, 1999, meetings. -- Received
- 99-1012-10 Sanitary sewer board of WLSSD minutes of September 27, 1999, meeting. -- Received
- 99-1012-11 Spirit Mountain recreation area authority minutes of August 30, 1999, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Greg Price expressed support for the council having a resolution declaring the week of the Blues Festival as Blues Appreciation Week dedicated to the memory of Stevie Ray Baun, noting also that Governor Ventura supports the Blues Festival.

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Darlene Virta reviewed her documents (Public Document No. 99-1012-18) regarding the Women's Coalition building that is being constructed on 20th Avenue East and Eighth Street, noting her concern over the dynamiting and drilling of rock which, in the recent court case, their architect stated there would be no need to do, but the construction specifications call for it. Secondly, she stated that this site was at one time a construction debris dump site and the coalition has not done a full, complete sampling to determine if there are any type of pollutants still remaining. In conclusion, Ms. Virta stated that the geological study from the University of Minnesota - Duluth shows a very large rock formation that covers this property.

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Art Jacquart noted that he lives in the area below the Women's Coalition site and he showed pictures of the property when Lee Older Construction, who had a permit to dump on this site, dumped cement slabs, sewer pipe, wire, asbestos and other items. He stated that he spoke before the council in 1983, with these same pictures. Mr. Jacquart also noted that remains of an old gas station have been dumped on this property.

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LoAnn Hilde stated that she is a new resident in the area of the Women's Coalition site and noted her objection to the revised site plans for the property. She requested a review by the planning commission. Ms. Hilde felt that the Women's Coalition misrepresented their knowledge of this site being a former dump site.

- - -

Peggy Marrin stated that there is some impression that the mayor is going to replace an individual from the Bayfront task force and felt to have a new person come on at this late stage

would be difficult. She noted that she would be willing to accept that appointment because she has been attending all the meetings anyway.

- - -

At this time, 8:00 p.m., President Keenan stated that the public hearing regarding the proposed certification of a property tax rate, would begin.

Councilor Hogg explained the background and necessity for this resolution.

There were no speakers that wished to be heard.

At this time, 8:07 p.m., the public hearing was closed.

- - -

Councilor Hogg moved to suspend the rules to consider Resolution 99-0728, authorizing the St. Louis County auditor to fix a property tax rate for taxes payable in the year 2000 that is higher than the tax rate calculated pursuant to Minnesota Statutes Section 204b.135 for the city for taxes levied in 1998, collectible in 1999, as required by state law, despite the fact that the city's proposed 2000 tax rate will be lower than its 1999 tax rate, at this time, which motion was seconded and unanimously carried.

Resolution 99-0728 was adopted as follows:

BY COUNCILOR HOGG:

WHEREAS, the city of Duluth adopted a proposed 2000 tax levy on September 13, 1999, in the amount of \$8,795,700, resulting in an estimated tax rate of .259776 for the year 2000, which is lower than the year 1999 tax rate of .260630; and

WHEREAS, the city of Duluth must comply with a new Minnesota state tax law requiring cities to pass a resolution regarding tax rate changes based on last year's levy less the general obligation debt levy compared to the proposed 2000 levy less the general obligation debt levy;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby authorizes the St. Louis County auditor to fix a property tax rate for taxes payable in the year 2000 that is higher than the tax rate calculated pursuant to Minnesota Statutes, Section 204B.135 for the city for taxes levied in 1998, collectible in 1999.

RESOLVED FURTHER, that adoption of this resolution would not prevent the city from certifying a final levy that would result in no tax rate increase or tax rate decrease under the formula set forth in Minnesota Statutes, Section 204B.135.

Resolution 99-0728 was unanimously adopted.

Approved October 12, 1999

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR EDWARDS:

RESOLVED, that the city is hereby authorized to execute agreements with Blue Cross and Blue Shield of Minnesota under which that company will provide administrative services and stop loss insurance to the city group health plan during calendar year 2000, for a total fee of \$35.36 per single employee per month and \$48.49 per family per month, for a total estimated cost of \$957,393, which shall be paid from the group health fund.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0732 was unanimously adopted.
Approved October 12, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

WHEREAS, DWD II Corporation, dba 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, dba Check Cashing of Duluth.

Resolution 99-0733 was unanimously adopted.
Approved October 12, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

WHEREAS, Pawn America Minnesota, LLC, has applied to the Minnesota department of commerce for a license to transact the business of a currency exchange at its offices at 339 East Central Entrance; 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 339 East Central Entrance to Pawn America Minnesota, LLC.

Resolution 99-0734 was unanimously adopted.
Approved October 12, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of manager, MIS, which were approved by the civil service board on August 3, 1999, and which are filed with the city clerk as Public Document No. 99-1012-12, are approved. This classification remains represented by the supervisory unit and compensated at range 1110, \$4,245 to \$5,175 per month.

Resolution 99-0726 was unanimously adopted.
Approved October 12, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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

ANIMAL HUMANE BOARD

Patricia Wheeler for a term expiring October 31, 2004.

Resolution 99-0727 was unanimously adopted.

Approved October 12, 1999

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the city is hereby authorized to execute a ski grant agreement with the Minnesota department of natural resources, under which the city will be reimbursed for up to \$6,000 in expenses related to maintenance of cross country ski trails in the city of Duluth during the 1999-2000 winter season, which agreement is on file in the office of the city clerk as Public Document No. 99-1012-13. Monies received by the city under this grant agreement shall be deposited in the General Fund 100-500-1920-4232.

Resolution 99-0730 was unanimously adopted.

Approved October 12, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

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 1, 1999, through September 30, 1999 at costs not to exceed \$40,000. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 99-1012-14.

FURTHER RESOLVED, that costs incurred shall be charged to Fund 268, Budget Item 6232.

Resolution 99-0724 was unanimously adopted.

Approved October 12, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement with the St. Louis and Lake counties regional railroad authority for the reconstruction of railroad tracks in conjunction with the extension of Lakewalk East through the Trunk Highway 61 overpass, said agreement filed as Public Document No. 99-1012-15, for a consideration of \$75,500 to be paid from Fund 411, Agency 035, Org. 2107, Object 5530.

Resolution 99-0729 was unanimously adopted.

Approved October 12, 1999

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 99-0737, by Councilor Hogg, urging parties to the labor dispute at ME International to begin meaningful face-to-face negotiations until a settlement is reached, was introduced for discussion.

Councilors Edwards and Rapaich noted that they would be abstaining from discussion and voting on this issue because they have a conflict of interest.

Councilor Hogg reviewed how a prior resolution that was introduced supported one side. He felt that the council should not be involved in labor disputes, but that the councilor should exercise leadership to settle a community issue. In conclusion, Councilor Hogg noted that this resolution is not intended to favor one side over the other.

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

Sherri Plesko stated that the issue is that ME International does not treat their workers with respect or fairness. She cited examples of situations that her husband experienced at ME International. Ms. Plesko stated that Resolution 99-0700, expressing concern for the safety and working conditions of people employed at ME International, is more appropriate than this resolution.

K.L. Lewis supported safety in the work place at any work site, noting that it is cheaper than the costs associated with an injured worker.

Councilor Swapinski reviewed how on September 13, when Resolution 99-0700 was being considered, Councilor Hogg did not think that it was appropriate for the council to get involved in a labor dispute, and added that he does not understand why Councilor Hogg is now sponsoring a resolution speaking to this issue. Councilor Swapinski also stated that he felt this resolution does not address the issue and is just empty rhetoric. He moved to remove the resolution from the agenda, which motion was seconded and failed upon the following vote:

Yeas: Councilors Gilbert and Swapinski -- 2

Nays: Councilors Fena, Hales, Hogg, Prettner Solon and President Keenan -- 5

Abstention: Councilors Edwards and Rapaich -- 2

Resolution 99-0737 was adopted as follows:

BY COUNCILOR HOGG:

WHEREAS, Duluthians greatly appreciate the contribution that ME International and all of its employees and union members make to our Gary-New Duluth community and to the economy of our city and region; and

WHEREAS, the citizens of Duluth are becoming increasingly dismayed by the growing friction between striking employees and the company as issues upon which they disagree remain unresolved; and

WHEREAS, an active, open and cooperative bargaining process could promote the good faith efforts of both parties to reach prompt and equitable solutions to the issues which divide them; and

WHEREAS, such an approach is consistent with local values and standards and is most likely to lead to a positive and harmonious result for the company, its employees, and the community as a whole;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby requests that both union and management representatives engage in meaningful face-to-face bargaining and negotiations until a settlement is reached, and that both parties focus on reaching agreement rather than blaming one another.

Resolution 99-0737 was adopted upon the following vote:

Yeas: Councilors Hales, Hogg, Prettner Solon and President Keenan -- 4

Nays: Councilors Fena, Gilbert and Swapinski -- 3

Abstention: Councilors Edwards and Rapaich -- 2

Approved October 12, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0700, by councilors Gilbert and Swapinski, expressing concern for the safety and working conditions of people employed at ME International, was introduced for discussion.

Councilor Swapinski reviewed how in 1996 there was a resolution of a similar nature relative to Firestone, so there is a precedence for the council to vote on a labor dispute and also there was initially a city investment in the property with the acquisition of the property. He stated that it is the role of the city council to see that workers are treated with respect and dignity, and work in a safe environment.

Councilor Fena expressed her concerns that the council is not to address labor issues, but that safety issues are issues that the council should be concerned with.

Councilor Gilbert felt that this was also an economic development issue, noting that when this issue first became apparent, the city should have worked with the company to see what help could be provided to address possible assistance.

Councilor Prettner Solon felt that Resolution 99-0737 is an economic development resolution, but that this resolution has more to do with management and the workers. She stated that, while she does not know the specifics of the issues and the positions of management and the workers, she will support the resolution based on the aspects of safety.

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

Bruce Lotti noted that the primary issue is the safety of workers at their jobs and that he felt that the owners are only concerned about the "bottom line," at the expense of the workers. He noted that while the employer provides good paying jobs, the profits go outside of this community. Mr. Lotti felt that the hiring of scab workers affects the lives of the workers of organized labor in this community.

Peter Nickitas spoke for Joe Menard, a worker of ME International, who reported a safety violation to an OSHA inspector. He stated that Mr. Menard was suspended, then fired for reporting the safety violation and was then reinstated but has not received his back pay. Mr. Nickitas stated that this resolution reflects the concern for the care of workers and their families against unsafe working conditions. He reviewed the number of OSHA violations at ME International.

Sam Differding voiced his support for the resolution, noting that their union has presented to the National Labor Relations Board their issues of safety and working conditions.

Peggy Marrin expressed her concern that ME International has not been fair in dealing with their employees.

Councilor Prettner Solon moved to amend the resolution by changing the title to read: "RESOLUTION EXPRESSING CONCERN FOR THE SAFETY AND WORKING CONDITIONS OF PEOPLE EMPLOYED AT ME INTERNATIONAL," and in the fourth paragraph, after the words "support for" add the words "the concerns of," which motion was seconded and carried as follows:

Yeas: Councilors Fena, Gilbert, Hales, Hogg, Prettner Solon, Swapinski and President Keenan -- 7

Nays: None -- 0

Abstention: Councilors Edwards and Rapaich -- 2

Councilors that did not originally feel that the council should be involved with labor and management issues noted that with this amendment that they could support the resolution.

Resolution 99-0700, as amended, was adopted as follows:

BY COUNCILORS GILBERT AND SWAPINSKI:

WHEREAS, Local 1028, United Steelworkers of America, is presently engaged in a strike against ME International which primarily involves issues of employee safety and working conditions; and

WHEREAS, the city council recognizes the right of employees to organize and express their views on workplace issues through various means including strikes; and

WHEREAS, the city council is concerned about the safety and working conditions of people employed in the city of Duluth;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby expresses its support for the concerns of Local 1028, United Steelworkers of America, in its strike against ME International.

Resolution 99-0700, as amended, was adopted upon the following vote:

Yeas: Councilors Fena, Gilbert, Hales, Hogg, Prettnner Solon, Swapinski and President Keenan -- 7

Nays: None -- 0

Abstention: Councilors Edwards and Rapaich -- 2

Approved October 12, 1999

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES ORDINANCE TABLED

BY COUNCILOR PRETTNER SOLON

99-026 - AN ORDINANCE AMENDING SECTION 6-36 OF THE DULUTH CITY CODE TO PERMIT THE USE OF UNDERGROUND ELECTRIC FENCES AS A MEANS OF RESTRAINING ANIMALS.

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

Councilor Prettnner Solon noted that the animal humane board has met with electric fence business owners and has been working on language that will work for both parties. She stated that that language will be covered in a new ordinance (Ordinance 99-027), and thus moved to remove the ordinance from the agenda, which motion was seconded and unanimously carried.

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The following entitled ordinance was read for the first time:

BY COUNCILOR HALES

99-027 - AN ORDINANCE AMENDING SECTIONS 6-34 AND 6-36 OF THE DULUTH CITY CODE TO PROVIDE SAFE PASSAGE OF INVITEES ONTO PRIVATE PROPERTY AND TO PERMIT THE USE OF UNDERGROUND ELECTRONIC FENCING SYSTEMS AS A MEANS OF RESTRAINING ANIMALS.

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

K.L. Lewis expressed her concern that electric fences do not protect the dog from external factors that enter onto the property.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR HOGG

99-025 (9423) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,745,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO

BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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

- - -

BY COUNCILOR EDWARDS

99-024 (9422) - AN ORDINANCE ELIMINATING THE LIMIT ON THE NUMBER OF ON SALE INTOXICATING LIQUOR LICENSES THAT ONE LICENSEE CAN HOLD IN THE CITY OF DULUTH; AMENDING SECTION 8-53, DULUTH CITY CODE, 1959, AS AMENDED.

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

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The meeting was adjourned at 9:05 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9423

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,745,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. Bond purpose and authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Sections 115.46 and 444.075 and Chapter 475 of Minnesota Statutes, and other pertinent provisions of said Charter and statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal sewer utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal sewer utility pledged for their payment.

1.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal sewer utility, and determines it is necessary to issue general obligation sewer utility revenue bonds in the amount of \$1,745,000 for the purpose of paying costs of the improvement program, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The city has heretofore issued and sold general obligation sewer utility revenue bonds dated June 1, 1995, now outstanding in the amount of \$1,685,000, and general obligation sewer refunding bonds dated June 1, 1995, now outstanding in the amount of \$1,385,000, dated December 1, 1995, now outstanding in the amount of \$545,000, and dated May 1, 1998, the sewer utility portion of such bonds now outstanding in the amount of \$530,000, and general obligation sewer utility revenue bonds dated December 1, 1998, now outstanding in the amount of \$1,080,000. Under the provisions of the ordinances authorizing said bonds, the city reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds dated June 1, 1995, December 1, 1995, May 1, 1998, and December 1, 1998.

1.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation sewer utility revenue bonds of the city of Duluth in the amount of \$1,745,000 plus such additional amounts of bonds, if any, up to a maximum of two percent of the amount of bonds herein authorized, as the city council shall by resolution determine to issue as additional obligations representing interest as authorized by Minnesota Statutes, Section 475.56, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal of and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal sewer utility. Net revenues are defined as sums from time to time within the sewer utility operating account within the sewer utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable, and current expenses of operating and maintaining the municipal sewer utility and to maintain such reasonable reserves for such expenses as the director of finance shall determine to be necessary from time to time in accordance with the policies established by the city council.

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

Section 2. Terms of bonds.

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

Section 3. Revenues and accounts.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and amounts required to pay the normal, and current operating expenses and to maintain the municipal sewer utility and also to produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

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

Section 4. Certification of proceedings.

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

4.02 The officers of the city and the county auditor are authorized and directed to prepare and furnish to the purchasers of the bonds, and to bond counsel, certified copies of all proceedings

and records of the city relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds, as such facts appear from the official books and records in the officers' custody and are otherwise known to them. All such certified copies, certificates, and affidavits, including any heretofore furnished, constitute representations of the city as to the correctness of the facts recited therein and the action stated therein to have been taken.

Section 5. Effective date.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 14, 1999)

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

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

Nays: None -- 0

Passed October 12, 1999
Approved October 12, 1999
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9422

BY COUNCILOR EDWARDS:

AN ORDINANCE ELIMINATING THE LIMIT ON THE NUMBER OF ON SALE INTOXICATING LIQUOR LICENSES THAT ONE LICENSEE CAN HOLD IN THE CITY OF DULUTH; AMENDING SECTION 8-53, DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 8-53 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-53. Limitation on licenses to same licensee.

No more than one off sale intoxicating liquor license shall be granted to one person, partnership or corporation or to one establishment or location.

No person, partnership or corporation shall have or possess a direct or indirect interest in more than one off sale intoxicating liquor license in the city of Duluth.

The term interest as used in this Section includes any pecuniary interest in the ownership, operation, management or profits of a retail liquor establishment but does not include: bona fide loans, bona fide retail loans, bona fide open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures or supplies to such establishment.

A person, partnership or a corporation which receives monies from time to time directly or indirectly from a licensee in the absence of a bona fide consideration therefor, and excluding bona fide gifts or donations, shall be deemed to have a pecuniary interest in such retail license.

Upon conviction for violation of this Section the city council may revoke all licenses in which such convicted person, partnership or corporation has an interest.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 14, 1999)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 12, 1999
Approved October 12, 1999
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 25, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of council meetings held on August 9 and 23, 1999, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-1025-10 Critter Care Pet Clinic submitting communication regarding electronic fencing systems (99-027-O). -- Received

99-1025-16 Evensen Dodge, Inc., submitting presale analysis regarding \$2,475,000 G.O. Great Lakes Aquarium project, Series 1999E, \$1,745,000 G.O. sewer utility revenue bonds, Series 1999F, \$1,220,000 G.O. improvement bonds, Series 1999G, and \$1,985,000 G.O. equipment certificates of indebtedness, Series 1999H (99-0744R). -- Received

99-1025-01 St. Mary's Duluth Clinic Medical Center, by LHB Engineers and Architects, submitting acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance No. 9410 on April 26, 1999. -- Received

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REPORTS OF OFFICERS

99-1025-02 Assessor submitting letter of sufficiency pertaining to the petition to reclassify from R-1-b, C-5, and S to C-5 that part of SE ¼ of SW ¼ of Section 18, T50, R14, lying westerly of Sundby Road, easterly of Miller Creek, northeasterly of U.S. Highway 53 and northerly of property described on Certificate No. 252425 and located between Miller Trunk Highway and Sundby Road east of Page Street. -- Received

99-1025-03 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license from St. Benedict's Church (bingo) on November 13, 1999. -- Received

99-1025-04 Engineering division submitting monthly project status report of October 1, 1999. -- Received

99-1025-05 Community development and housing division submitting HRA housing rehabilitation report for September, 1999. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-1025-06 Duluth airport authority minutes of August 17, 1999, meeting. -- Received

99-1025-07 Alcoholic beverage board minutes of: (a) September 8; (b) September 14, 1999, meetings. -- Received

99-1025-08 Charter commission minutes of October 14, 1998, meeting. -- Received

99-1025-09 Citywide citizens advisory committee minutes of: (a) August 24, (b) August 31, 1999, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Peggy Marrin stated she appreciates the difference in opinion that council members have and noted that diversity is a quality that elected officials should have on tough issues.

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K.L. Lewis suggested that for the safety of swimmers in the water near the Lakewalk, a line of buoys should be placed in the water to prevent speed boats and jet skis from coming in too close and causing injury to those in the water. In addition, she suggested that stop signs be placed on all sides of the intersection of Fourth Avenue East and First Street before someone is killed.

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Jeff Brown, representing the Duluth Pedestrian, Bicycle and Transit Coalition, stated that safety recommendations regarding signage for inline skating on the Lakewalk, which were submitted by the coalition five years ago, have been ignored by the current administration, and as a result, death and injury have occurred. He continued that the signs recommended for safety are common on other Minnesota trails and throughout the country. Mr. Brown urged the council to take immediate action to implement the recommendation to get signage on the Lakewalk to prevent another accident from occurring.

Responding to Councilor Gilbert, Mr. Brown stated that the safety task force was originally created as a citizens task force to address the multi-use issues on the Lakewalk and that the citizens were removed from the task force shortly after the recommendations were made in November of 1994, when it became an interdepartmental-only task force.

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

RESOLVED, that the assessment roll levied to defray the assessable portion of the construction of Railroad Street from Eighth Avenue West to Garfield Avenue (Contract #5299, total assessable - \$267,570), is hereby confirmed.

Resolution 99-0742 was unanimously adopted.

Approved October 25, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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

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

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

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

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
Elk's Lodge #133	4250 Haines Road	September 23, 1999
	Country Lanes North	September 23, 1999

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0750 was unanimously adopted.
Approved October 25, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following off sale intoxicating liquor license for the period ending August 31, 2000, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Piedmont Bottle Shop (Piedmont Bottle Shop), 2818C Piedmont Avenue, transferred from Piedmont Bottle Shop (Piedmont Bottle Shop), 2828 Piedmont Avenue.

Resolution 99-0751 was unanimously adopted.
Approved October 25, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of a temporary on sale intoxicating liquor license to the following licensee, with an application fee of \$200 per event, subject to departmental approvals with any specific restrictions, and further subject to approval of the liquor control commissioner:

AAD Temple, 201 East First Street, for October 30, 1999, November 14, 1999, and December 11, 1999, with James LeBlanc, manager.

Resolution 99-0752 was unanimously adopted.
Approved October 25, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of water and gas warehouse leadworker, including a title change to warehouse leadworker, which were approved by the civil service board on October 4, 1999, and which are filed with the city clerk as Public Document No. 99-1025-11, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range shall remain the same, pay range 32, \$3,129 to \$3,720 per month.

Resolution 99-0738 was unanimously adopted.
Approved October 25, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of water and gas warehouse assistant, including a title change to warehouse assistant, which were approved by the civil service board on October 4, 1999, and which are filed with the city clerk as Public Document No. 99-1025-12, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, and the pay range shall remain the same, pay range 29, \$2,753 to \$3,266 per month.

Resolution 99-0739 was unanimously adopted.
Approved October 25, 1999
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to city Contract No. 16058 with Neighborhood Housing Services of Duluth, Inc. (NHS), substantially in the form of that on file in the office of the city clerk as Public Document No. 99-1025-13, extending the term of said contract to March 31, 2000, with no change in contract amount.

Resolution 99-0743 was unanimously adopted.

Approved October 25, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to city Contract No. 18110 with Center City Housing Corporation, substantially in the form of that on file in the office of the city clerk as Public Document No. 99-1025-14, extending the time for repayment of the loan.

Resolution 99-0749 was unanimously adopted.

Approved October 25, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, the proper city officers are hereby authorized and directed to execute an amendment to an agreement between the city of Duluth and the St. Louis County Board for the furnishing of home delivered meals for senior citizens for the period of July 1, 1999, through December 31, 1999, to increase the payment for elderly waiver meals from \$3.84 to \$3.99. Said agreement is filed as Document No. 18418. Monies collected under said agreement shall be deposited in Federal Program Fund 272, Dept. 031, Org. 6309, Rev. Source 4654.

Resolution 99-0735 was unanimously adopted.

Approved October 25, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to modify city Contract No. 18332 with the Arrowhead Economic Opportunity Agency (A.E.O.A.) to provide Gear Up! program services to MFIP participants by correcting funding total amounts for secured funding in year one and compensation plan changes for year two, as negotiated with the McKnight Foundation, as the funding source. Total contract amount is unchanged, but corrected to read \$60,912 to correct a math error in the contract.

A copy of this modification shall be on file in the city clerk's office as Public Document No. 99-1025-17.

Resolution 99-0736 was unanimously adopted.

Approved October 25, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

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, as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

No. 79241 for maintenance on trunk highways 23, 39, 61 and 194 (\$337,009); and No. 79396 for maintenance and landscape work along Trunk Highway 53 (Piedmont Avenue) (\$20,000);

NOW, THEREFORE, BE IT 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. All sums are to be deposited in the General Fund 100-500-1920-5234.

Resolution 99-0731 was unanimously adopted.

Approved October 25, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the rehabilitation of Bridge No. 69812 on 27th Avenue West and Courtland Street, S.A.P. 118-080-21; and

WHEREAS, the grant has to be approved and the amount of the grant has been determined to be \$70,530;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby accept said grant and affirms that any rehabilitation costs qualifying for Minnesota transportation funds in excess of the grant will be appropriated from funds available to the city of Duluth and that any grant monies appropriated for rehabilitation costs but not required, based on the final audit, shall be returned to the Minnesota state transportation fund.

RESOLVED FURTHER, that grant monies received pursuant to this resolution shall be deposited in Fund 411, Agency 035, Org. 2131.

Resolution 99-0740 was unanimously adopted.

Approved October 25, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Western Waterproofing Company, Inc., be and hereby is awarded a contract for repairs at four municipal parking ramps in the city of Duluth for the city architect division in accordance with specifications on its low specification bid of \$181,087.05, terms net 30, FOB job sites, \$158,572.25 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1999, Object C918 and \$22,514.80 payable out of D.E.D.A. Fund 860.

Resolution 99-0755 was unanimously adopted.

Approved October 25, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with J & S Partnership, LLP, for the construction of roadways, sanitary sewers, storm sewers, water mains, and gas mains in 33rd Avenue West, Michigan Street, and 32nd Avenue West in accordance with the terms of said agreement which is filed in the office of the city clerk as Public Document No. 99-1025-18.

Resolution 99-0757 was unanimously adopted.

Approved October 25, 1999

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 99-0744, by Councilor Hogg, authorizing the issuance and providing for the sale of \$2,475,000 general obligation bonds (Great Lakes Aquarium project), Series 1999E; \$1,745,000 general obligation sewer utility revenue bonds, Series 1999F; \$1,220,000 general obligation improvement bonds, Series 1999G; and \$1,985,000 general obligation equipment certificates of indebtedness, Series 1999H, was introduced for discussion.

Councilor Hogg explained what the funds will be used for in detail.

Resolution 99-0744 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 certificates and bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its general obligation equipment certificates of indebtedness and general obligation bonds for the following purposes:

(1) \$2,475,000 general obligation bonds (Great Lakes Aquarium project), Series 1999E, are hereby authorized and shall be issued pursuant to Laws of Minnesota 1974, Chapter 130, Minnesota Statutes, Chapter 475, and Ordinance No. 9412 adopted April 26, 1999, for the purpose of providing funds to provide the local match of grant funds from the state of Minnesota to pay part of the public development costs associated with construction of the Great Lakes Aquarium at Lake Superior Center;

(2) \$1,745,000 general obligation sewer utility revenue bonds, Series 1999F, are hereby authorized and shall be issued pursuant to Ordinance No. 9423, adopted October 12, 1999, Minnesota Statutes, Chapter 475, and Section 115.46 and 444.075, and Section 55 of the Home Rule Charter of the city for the payment of the costs of improvements to the municipal sewer utility;

(3) \$1,220,000 general obligation improvement bonds, Series 1999G, 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

(4) \$1,985,000 general obligation equipment certificates of indebtedness, Series 1999H (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 certificates and bonds. The terms and conditions of the certificates and bonds and the sales thereof are set forth in the official terms of offering, which are attached hereto as Exhibits A, B, C and D. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the certificates and bonds and the sales thereof, and the city council shall meet at the time and place fixed herein to consider proposals for the purchase of the certificates and bonds;

(c) The council shall hold a public hearing on the issuance of the Series 1999E bonds at 5:00 p.m. on November 18, 1999, pursuant to Section 147(f) of the Internal Revenue Code;

(d) Negotiated sale. Evensen Dodge, Inc., independent financial advisor to the city, is hereby authorized to solicit proposals for the sale of the certificates and bonds as provided by Minnesota Statutes, Section 475.60, subdivision 2(9);

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

Resolution 99-0744 was unanimously adopted.
Approved October 25, 1999
GARY L. DOTY, Mayor

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Resolution 99-0761, by councilors Edwards and Gilbert, requesting the traffic engineer to place stop signs on 26th Avenue East at its intersection with East Third Street, was introduced for discussion.

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

The following individuals spoke in support of the placement of stop signs at the intersection of 26th Avenue East and Third Street: Greg Haug, registered civil engineer with experience in traffic engineering and the transportation business; Don Kundel; John Hansen; K.L. Lewis; and Joann Paul.

Reasons given to support the resolution were as follows: before the avenue was improved, the neighborhood was told that 26th Avenue East was not intended to be a thoroughfare to I-35, lane changes on 21st Avenue East and the improvement of 26th Avenue East, which was left at a narrow width, has caused traffic to shift to 26th Avenue East; it is not safe for people, especially children going to school, to cross the avenue; the steep grade coming up 26th Avenue from Second Street to Third Street results in a short line of sight and is unsafe for pedestrians crossing because the intersection cannot be seen; residents have a right to be able to cross streets in a safe manner. The residents acknowledged that the stop sign that was erected at the Second Street intersection has helped slow the traffic further down the hill but that safety is still being compromised at the intersection of Third Street.

Councilor Edwards reviewed the 1991 Minnesota manual on uniform traffic control devices and quoted specific reasons to use or not to use devices to control traffic. She read from the Duluth City Code relating to the duties of the traffic engineer and stated that she believes there is authority for the traffic engineer to do whatever is necessary to make the traffic on city streets safe.

Responding to Councilor Hogg, Administrative Assistant Hartl stated that he does not know if there has been a traffic count done specifically for 26th Avenue East, but that the traffic engineering department is proposing to look at all traffic within the city to make some policy recommendations.

Councilor Hogg stated that he is concerned that the combination of improving 26th Avenue East and making 21st Avenue East into one lane up and down has caused overflow traffic to occur on 26th Avenue East.

Councilor Gilbert stated he realizes that the council can only recommend that a stop sign be put at this intersection, but that the street has gone from the bumpiest to the fastest since being improved. He encouraged the engineering division to look carefully at the statistics to come up with a recommendation.

Councilor Fena acknowledged that traffic on 26th Avenue East has become much heavier than the street was designed for but cautioned that putting a stop sign at the location requested may not solve the problem. She urged the traffic engineer to erect a stop sign at the intersection, conduct a study of the results and report back to the council.

Councilor Prettner Solon noted that there are already stop signs on 26th Avenue East at Superior Street, Second Street and Fourth Street and questioned if another stop sign at Third Street will solve the problem. She reviewed that reports requested by the council on traffic patterns when changes were made on 21st Avenue East have not been received. Councilor

Prettner Solon requested that a traffic study of 26th Avenue East be conducted, and that reports previously requested be submitted before the council takes action on this issue.

Councilor Hales agreed that more information is necessary and suggested having a committee meeting to discuss the issue with the traffic engineer. She moved to table the resolution, which motion was seconded and failed upon the following vote:

Yeas: Councilors Fena, Hales, Prettner Solon and Rapaich -- 4

Nays: Councilors Edwards, Gilbert, Hogg, Swapinski and President Keenan -- 5

Councilor Hogg stated he believes that the council is united in wanting to make sure that it knows what the traffic engineer thinks about this issue, but that there is also the feeling that there needs to be some immediate response for the neighborhood. Councilor Hogg moved to amend the resolution by adding a paragraph to read as follows:

“RESOLVED FURTHER, that a report be made to the city council on traffic safety issues on 26th Avenue East, especially the intersection of Third Street, by November 8, 1999,” which motion was seconded.

Councilor Gilbert stated that while he understands the thinking behind the amendment, he believes that the council has the responsibility to the neighborhood that has requested a stop sign at the intersection to make a recommendation without adding delays. He continued by saying that if, for some legal reason, the traffic engineer cannot accommodate the request, then he should come back to the council with a report listing the reasons why it cannot be done.

Councilor Swapinski agreed that the resolution should be voted upon without amendment and noted that his concern is about safety. He emphasized that this resolution makes a request and that if it cannot be done, the traffic engineer needs to let the council know why.

President Keenan agreed that the issue should be kept as simple as possible and not create additional delays. He continued by saying that the resolution merely indicates the council's concern about safety at the intersection and that the request, itself, may generate more information gathering.

Councilor Hales stated she cannot support the amendment or a resolution that just requests a report for a specific site. She continued by saying that there have been a number of neighborhood requests for stop signs at specific sites and she believes the council needs to hold a public safety committee meeting to discuss what city policy will be on the issue.

Councilor Edwards stated she cannot support the amendment and that she agrees with councilors Gilbert and Swapinski. She noted that this neighborhood has fought with city administration over this stop sign for two years and it is now time for elected officials to help by requesting that a stop sign be erected at the intersection of Third Street and 26th Avenue East. She suggested that Councilor Hogg's amendment be added as a separate paragraph to the resolution to enable the council to discuss what the policy will be as streets and intersections become wider and faster due to the street improvement program.

Councilor Hogg stated that he will accept Councilor Edwards' suggestion as a friendly amendment. He continued by adding that the report he is requesting involves the safety of the whole avenue and not just the stop sign at Third Street.

Councilor Edwards moved to amend Councilor Hogg's amendment so that the title of the resolution reads as follows:

“RESOLUTION REQUESTING THE TRAFFIC ENGINEER TO PLACE STOP SIGNS ON 26TH AVENUE EAST AT ITS INTERSECTION WITH EAST THIRD STREET AND REPORT TO THE COUNCIL ON TRAFFIC SAFETY ISSUES IN THAT AREA BY NOVEMBER 8, 1999.”

Councilor Prettner Solon stated she is bothered by the process the council is going through right now. She continued by saying that she disagrees with the process the council is undertaking

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

in receiving a resolution on Saturday and now trying to paste together language that will be acceptable which she emphasized is poor policy making. She agreed that no action should be taken on the resolution, that information should be gathered and a committee meeting be held to make some reasoned decisions on the issue.

Councilor Fena encouraged Councilor Hales to set up a committee meeting and she stated that the metropolitan interstate committee (MIC) has set a priority for a truck route and that perhaps information they have could be brought to the meeting, as well.

Councilor Hales moved to add what she considers to be a friendly amendment by adding Tenth Avenue East to the resolution because a similar problem is being experienced there with a new street improvement. Councilor Hales' motion was not seconded.

Councilor Hogg's amendment passed upon the following vote:

Yeas: Councilors Edwards, Fena, Hogg, Prettner Solon, Rapaich, Swapinski and President Keenan -- 7

Nays: Councilors Hales and Gilbert -- 2

Resolution 99-0761, as amended, was adopted as follows:

BY COUNCILORS EDWARDS AND GILBERT:

RESOLVED, that the Duluth City Council hereby requests that the city traffic engineer, pursuant to the provisions of Section 33-40 of the Duluth City Code, cause to be placed on 26th Avenue East at its intersection with Third Street stop signs stopping traffic proceeding up and down 26th Avenue East.

RESOLVED FURTHER, that a report be made to the city council on traffic safety issues on 26th Avenue East, especially the intersection of Third Street, by November 8, 1999.

Resolution 99-0761, as amended, was adopted upon the following vote:

Yeas: Councilors Edwards, Fena, Gilbert, Hogg, Rapaich, Swapinski and President Keenan -- 7

Nays: Councilors Hales and Prettner Solon -- 2

Approved October 25, 1999

GARY L. DOTY, Mayor

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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 FY2000 action plan portion of the city of Duluth consolidated plan for housing and community development FY 1996 - 2000 required by HUD federal legislation is hereby adopted and approved.

BE IT FURTHER RESOLVED, that the city of Duluth hereby makes a finding that expenditures as set forth in Resolution 99-0746 are necessary and appropriate and further that said expenditures for the CDBG program will serve to assist low and moderate income individuals/families (no less than 70 percent as described in federal regulations) and/or serve to prevent or eliminate conditions of slum or blight in the community.

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and emergency shelter grant programs.

Resolution 99-0745 was unanimously adopted.

Approved October 25, 1999

GARY L. DOTY, Mayor

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Resolution 99-0746, by Councilor Prettner Solon, authorizing a request for HUD federal community development block grant (CDBG) funds for the 2000 program year as well as approving the reallocation of certain prior CDBG funds, was introduced for discussion.

Councilor Prettner Solon read the resolution in its entirety.

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

Dave Geary encouraged the council to restore the \$600,000 funding level recommended by the economic development subcommittee of the citywide citizens advisory committee (CCAC) for the Duluth community job fund. He expressed concern about the amount of funding that will be available in 2000 and beyond for job creation when individuals and families will be forced off of public assistance and be required to find employment. Mr. Geary continued by saying that the most critical issue for low income people is employment and that this program is an excellent vehicle for job creation and those of low income status will be specifically targeted. In addition, he said, businesses participating in the program will be required to hire low income people, pay them a living wage, maintain the position for a minimum of three years and provide job training and a career path.

Responding to Councilor Gilbert, Mr. Geary stated that a wide variety of businesses can apply for these dollars which could create a number of different types of jobs for low income people if there is a significant amount of money in the fund.

Responding to Councilor Edwards, Bruce Wyman, president of the CCAC, stated that the funding for economic development was not changed, but the specific program funding was moved around. He continued by saying that while it would be nice to put all of the money into the Duluth community jobs fund, the CCAC felt that these people coming off welfare need to be trained and that it was important to preserve funding for Northeast Entrepreneurs and Northstar to facilitate training.

Marvella Davis spoke in support of the Youth Avenues for Kids program at Copeland Community Center and encouraged councilors to allocate funds as recommended by the CCAC.

Victoria Kiminski stated her disappointment that funding to improve Central Hillside alleys, specifically between First and Third avenues East and above Third Street, was not recommended.

Councilor Hales responded that the project required more information and that the city is looking into it further.

Robert Harboldt requested the council to fund the Native American Leadership Center project which the CCAC chose not to fund.

Russ Salgy advocated for the Copeland Community Center project.

Connie Moore, representing Project SOAR, requested support for funding recommended for the coming fiscal year for the expansion of career development and possible programming centered around women in nontraditional trades.

Maureen Booth and Judy Brown spoke in support of the Damiano Center Housing Access Center project and requested that the council increase the allocation from \$20,000, that has been recommended, to at least \$45,000 in order for the project to leverage private funding necessary for the project to be effective. They explained in detail that the center will replace the Duluth Tenants Union and will be active in mediation services and the prevention of homelessness. Furthermore, they stated that the city has a contractual obligation to the department of housing and urban development (HUD) to provide fair housing services in accordance with CDBG and HOME regulations, which cannot be accomplished with the funding as recommended.

Responding to Councilor Hales, Ms. Booth declined to speculate which projects the additional funding should come from. She noted that most cities have funded their fair housing allocations instead of using CDBG funds.

Responding to Councilor Hogg, Ms. Booth stated that the Duluth housing commission has taken advantage of opportunities provided administratively by the community development and housing division to seek out private funds.

Alberta Fairbanks spoke about the needs of Native American youth and requested that the city provide mentors and advocates of the same cultural background for them.

Responding to Councilor Prettner Solon, Mr. Wyman acknowledged that public service project recommendations did not equal 15 percent of the anticipated CDBG funds. Regarding the contingency fund, he stated that it is essential for it to be maintained to cover unanticipated cost overruns. Mr. Wyman noted, however, that if more funding is made available, the additional funding could be designated for the housing access center project.

Councilor Prettner Solon expressed concern that the city needs to be in compliance with the Fair Housing Act and stated that it is her intent to introduce a resolution at the next council meeting requesting the CCAC to allocate any additional funding to the housing access center project.

Mr. Wyman stated that there are many more sources that could contribute to private funding, however research needs to be done to find out who they are. He encouraged the city to hire an additional administrative person for the community development and housing division for the purpose of seeking additional private funds.

Mr. Hamre, community development and housing division manager, stated the importance of the contingency fund, but in light of the president signing the funding bill for 2000, and to give the housing access center more funding to leverage more private funding, he suggested that the council amend the contingency fund balance downward and increase the allocation for the housing access center. He added that in January when the funds are received, additional unanticipated funding could be directed to replenish the contingency fund.

Councilor Prettner Solon moved to amend Resolution 99-0746 as follows: "decrease the contingency fund by \$14,000 and increase the housing access center by \$14,000," which motion was seconded.

Councilor Fena stated that she shares the same concerns that Councilor Prettner Solon has regarding compliance with the Fair Housing Act. However, she believes that in order for the housing access center to move forward, enough funding should be in place so that it can leverage the private funding that it needs to operate. Councilor Fena moved to amend the resolution as follows: "decrease the housing and redevelopment (HRA) property rehabilitation project Account No. 6301 by \$30,000 to \$690,000 and increase the housing access center Account No. 6320 allocation from \$20,000 to \$50,000." She continued by saying that when the additional funds are available, the decreased funding for the property rehabilitation program can be restored.

Councilor Prettner Solon responded that the amount needs to stay within the 15 percent allowed for public service projects. She further stated that it is important that the council honor the work that the CCAC has done, as well as honor the council's responsibilities and obligations under the Fair Housing Act. Councilor Prettner Solon stated that she believes the best way to do that is to move what funds are available at this point from the contingency fund to the housing access center, increasing its funding to \$34,000, which allows them to leverage more, and then funds that come in later can be returned to the contingency fund. She encouraged adoption of her amendment because it is the least disruptive to the CCAC's plan.

Councilor Prettner Solon's amendment failed upon the following vote:

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

Nays: Councilors Edwards, Fena, Gilbert, Hales and Swapinski -- 5

Councilor Fena moved to amend the resolution as previously stated, which motion was seconded for discussion.

Councilor Fena stated that she does not believe that increasing the housing access center's funding to \$34,000 is adequate funding to really move the center into operation. She continued by saying that funding for the HRA housing rehabilitation project can be restored when the additional one percent is received and that the \$690,000 gives the HRA ample funding to get started.

Councilor Hales supported the amendment. She reminded the council that the city is using the new agency called the housing access center to implement a lot of the fair housing plans, which the city has committed to HUD to follow through on, and it is important for it to be funded at a level that allows it to operate.

Councilor Prettner Solon stated that she may be able to support Councilor Fena's amendment as long as the recommendation that the money be restored to the HRA when the bonus bucks come still stands. She continued by saying that she is aware there is a waiting list for housing rehabilitation and that the HRA cannot meet the demand already, and that also for each dollar invested in housing rehabilitation, there is about a 75 percent return in further investment.

Responding to Councilor Prettner Solon, Mr. Hamre said that with the additional \$30,000 allocated to the housing access center project, the total amount of funding for public service projects is still within the 15 percent cap allowed by HUD; that the HRA has a two year waiting list and the loss of the \$30,000 equates to two units that will not be funded. However, if the intent is to restore the funding, by the time the HRA gets the projects out in the spring they would probably be able to catch up. He continued by saying that allocating an additional \$30,000 to the housing access center will not negatively impact the center with regard to application for other grants because there is still a substantial amount of funding that the center needs to raise in order to operate.

Councilor Fena stated she will accept as a friendly amendment the addition of language stating the funding will be restored at the time additional CDBG funds are received.

Councilor Fena's amendment passed upon a unanimous vote.

Councilor Fena moved to further amend the resolution as follows: "decrease the allocation for Account No. 6335, contingency fund, by \$1,000 to \$14,000, and fund Account No. 6332, Akin NiiJ - Leadership Center, in the amount of \$1,000." She stated that this amendment will indicate to the CCAC that this project is an important need to the community and also give the project proponents an opportunity to develop their project so that it is more specific.

Councilor Fena's amendment was seconded for discussion.

Responding to Councilor Hales, Mr. Wyman noted that when the project was considered by the CCAC, there was concern that the project proponents were not ready to present a plan that

the CCAC could fully comprehend and understand as a business plan. He continued by saying that he had an opportunity to discuss and work with individuals presenting the application, which turned out to be a very favorable project, however there still was not a business plan. Mr. Wyman stated that by setting aside \$1,000 for this project will certainly indicate to the CCAC and community development and housing division staff that the council desires more work be done on the project.

Councilor Hales suggested opening another account in the amount of \$1,000 to get a project in the works for alley reconstruction in the Central Hillside that was referenced earlier by a speaker.

Councilor Swapinski suggested taking additional funding from the contingency fund to fund the Valley Youth Center, a longstanding West Duluth youth program, that also received no funding.

Councilor Prettner Solon stated objection to nickel accounts which she believes is just holding up \$1,000 accounts that will not go anywhere. She noted that the anticipated additional funding will amount to about \$35,000 and that establishing accounts for these unfunded projects gives false hope that the project will be funded.

Councilor Rapaich stated she is not comfortable in taking funds from contingency to hold for projects the CCAC chose not to fund. She continued by saying that with respect to the CCAC for the work they have done over the past year, she is not willing to make further changes to the recommendations received.

Councilor Hogg stated that he would agree with councilors Prettner Solon and Rapaich if Mr. Wyman had not commented that this would be an excellent way to get this project going. He stated he will support Councilor Fena's amendment.

Councilor Gilbert commended Councilor Fena on her amendment and stated that it is a good way to let the CCAC know that the council has confidence that it will work with proponents of this project to get it started.

Councilor Hales stated that she appreciates the work that has been done by the CCAC and that she would not support this amendment if Mr. Wyman had suggested some other approach to this issue. She stated that the duty of the CCAC is to make recommendations to the council, but the council can fine tune some of the recommendations.

Councilor Fena's amendment passed upon the following vote:

Yeas: Councilors Edwards, Fena, Gilbert, Hales, Hogg, Swapinski and President Keenan -- 7

Nays: Councilors Prettner Solon and Rapaich -- 2

Resolution 99-0746, 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, city council Resolution No. 99-0745 adopted October 25, 1999, approved the FY 2000 action plan portion of the Duluth consolidated plan for housing and community development FY 1996-2000; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said act as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended (the emergency shelter grant - ESG - program); and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below:

2000 CITY OF DULUTH COMMUNITY

DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM-FUND 262

<u>ACCOUNT</u>	<u>AMOUNT</u>	<u>PROJECTS</u>
<u>HOUSING PROJECTS</u>		
6301	\$690,000	Duluth property rehabilitation program - HRA
6302	\$69,000	Hillside initiative - Center City Housing Corp.
6303	\$208,000	AEOA weatherization (regular)
6304	\$185,000	West Duluth revitalization phase II - SVCNDA
<u>PHYSICAL IMPROVEMENT PROJECTS</u>		
6305	\$192,600	Cody (southwest 1) street improvements
6306	\$100,000	Citywide street improvements
6307	\$95,028	Hillside district streetscape - Phase II & III
6308	\$32,000	Blackmer field improvements - Phase III
6309	\$109,000	Lincoln Park restoration & rehab. implementation - Phase I
6310	\$5,000	West Duluth rec. center improvements - Memorial Park
6311	\$1,000	West Duluth sidewalk safety
6312	\$200,000	Fond du Lac neighborhood sewers
<u>ECONOMIC DEVELOPMENT PROJECTS</u>		
6313	\$200,787	North Star Community Development Corporation
6314	\$85,000	Microenterprise development/Northeast Entrepreneur Fund
6315	\$117,500	Career development & self employment training - Project Soar
6316	\$40,000	Opportunities cooking/Damiano Center
6317	\$200,000	Duluth community job fund
<u>PUBLIC SERVICE PROJECTS</u>		
6318	\$29,700	Youth avenues for success - Copeland Community Center
6319	\$60,000	Primary health care for low income - Duluth Community Health Clinic
6320	\$50,000	Housing access center - Damiano Center
6321	\$12,000	Veteran's outreach north
6322	\$28,000	Family transitional housing - Salvation Army
6323	\$35,000	Woman's Transitional Housing Coalition
6324	\$20,000	Little treasurers child care services - HDC
6325	\$25,000	YMCA community services
6326	\$25,000	Life House Youth Center
6327	\$80,000	Duluth hunger project - CHUM
6328	\$14,000	Transitional housing - AICHO
6329	\$50,000	Lincoln Park youth program - Boy's & Girl's Club
6330	\$50,000	YWCA youth programs
6331	\$30,000	Washington activity center - Neighborhood Youth Services

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below.

BE IT FURTHER RESOLVED, that until final allocations are determined by HUD the following shall be the designation for the below named HUD programs:

2000 HOME PROGRAM

Funds to be distributed by local formula (shown by percentages). The following assumes Duluth will receive an estimated \$740,000 for FY 2000:

50.0%	\$370,000	Homeowner property rehabilitation
13.5%	\$100,000	Homeownership initiative
18.0%	\$133,000	Community housing development organizations (CHDOs)
8.5%	\$63,000	Tenant-based rental assistance
10.0%	<u>\$ 74,000</u>	<u>Program administration</u>
100.0%	\$740,000	

2000 ESGP Program

Funds to be distributed by local formula once FY2000 allocation is received from HUD. The following allocation assumes Duluth will receive an estimated \$124,000 for FY 2000:

1999 ESGP FUNDING RECOMMENDATION

90% min.	\$111,600	Emergency shelter or transitional housing operation
5% max.	\$6,200	Essential social services/homeless prevention
5% max.	<u>\$6,200</u>	<u>Administration</u>
	\$124,000	

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

Resolution 99-0747 was unanimously adopted.

Approved October 25, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

WHEREAS, pursuant to Minnesota Statutes Annotated, Section 410.12, Subd. 7, the Charter commission has recommended to the city council that it adopt an ordinance amending Section 5 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 November 22, 1999, at 8:00 p.m. in the Council Chambers at the Duluth City Hall, and the city clerk is hereby authorized and directed to cause to be published in the Duluth News-Tribune a notice of such hearing, as required by law, and the full text of the proposed ordinance, said notice of hearing to be in the following form:

NOTICE OF HEARING

Pursuant to Minnesota Statutes Annotated, Section 410.12, Subd.7, notice is hereby given by the city of Duluth that on November 22, 1999, at 8:00 p.m. in the City

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 Section 5 of the City Charter in the manner hereinafter set forth:

[text of proposed Ordinance No. 99-028-O]

Resolution 99-0748 was unanimously adopted.

Approved October 25, 1999

GARY L. DOTY, Mayor

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Resolution 99-0741, by Councilor Swapinski, authorizing a loan application in the amount of \$225,000 from the Minnesota public facilities authority water pollution control revolving fund and making a declaration of official intent under U.S. treasury regulations Section 1.150-2, was introduced for discussion.

Councilor Swapinski stated that it has been requested that this resolution be sent back to the administration for further information.

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

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR RAPAICH

99-029 - AN ORDINANCE AUTHORIZING THE POLICE DEPARTMENT TO CONDUCT CRIMINAL HISTORY BACKGROUND INVESTIGATIONS ON APPLICANTS FOR CERTAIN POSITIONS WITH THE CITY, ADDING SECTION 13-39.1 TO THE CITY CODE.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR HALES

99-027 (9424) - AN ORDINANCE AMENDING SECTIONS 6-34 AND 6-36 OF THE DULUTH CITY CODE TO PROVIDE SAFE PASSAGE OF INVITEES ONTO PRIVATE PROPERTY AND TO PERMIT THE USE OF UNDERGROUND ELECTRONIC FENCING SYSTEMS AS A MEANS OF RESTRAINING ANIMALS.

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

- - -

The meeting was adjourned at 9:55 p.m.

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

- - -

ORDINANCE NO. 9424

BY COUNCILOR HALES:

AN ORDINANCE AMENDING SECTIONS 6-34 AND 6-36 OF THE DULUTH CITY CODE TO PROVIDE SAFE PASSAGE OF INVITEES ONTO PRIVATE PROPERTY AND TO PERMIT THE USE OF UNDERGROUND ELECTRONIC FENCING SYSTEMS AS A MEANS OF RESTRAINING ANIMALS.

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Section 1. That Section 6-34 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 6-34. Animal interference.

(a) No person shall harbor or keep any animal which shall cause annoyance to people passing upon the streets, sidewalks or other public places in the city of Duluth by physical interference with any such people;

(b) Persons owning or harboring a restrained animal on private property shall further restrict the animal on that private property in a manner which prevents that animal from having physical contact with an invitee when that animal has bitten or acted in an aggressive and vicious manner which prohibited safe passage of an invitee. Invitees shall have the right of safe passage onto private property for the purpose to perform their assigned duties.

An invitee for the purposes of this Section shall include but is not limited to the following: United States postal workers, Duluth city employees, state and county employees, parcel post delivery persons, food and product delivery persons and newspaper delivery persons, acting within the scope of their assigned duties and required to enter onto private property for the purpose of performing these duties;

(c) Picketing. No animal shall be picketed so as to be within ten feet of any lot line or public sidewalk, public alley or public street.

Section 2. That Section 6-36 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 6-36. Running at large prohibited.

No person shall suffer or permit any animal owned or controlled by that person to run at large within the city. An animal shall be considered to be at large if:

(a) The animal departs from the private property of the owner or other person caring for that animal and is not under physical control of the owner, a member of the immediate family or other responsible person caring for that animal. If the animal is under control by a leash, the leash must be of suitable strength not exceeding six feet in length. Persons controlling animals with leash devices capable of extending leash lengths greater than six feet shall retract the leash length so it shall not exceed six feet in length when being approached or approaching within ten feet of other persons and/or other animals;

(b) The animal remains on the private property of the owner or other person caring for that animal and the animal is not effectively contained within a fenced area (including an area surrounded with an underground electronic fencing system), or when the animal is on any unfenced area or lot abutting a street, alley, public park, school grounds or public place without being effectively restrained by a chain or metallic cable secured to a fixed object;

(c) An animal is not in violation of this Section if:

(1) Such animal remains on the private property of the owner or other person caring for that animal and a competent person is outside with the animal and that animal is immediately obedient to that person's command;

(2) Such animal is picketed in accordance with this Chapter;

(3) Such animal is confined in a shipping receptacle or a closed vehicle;

(4) Such animal is actually participating in a bona fide field trial, animal show or exhibition, training school, obedience school or similar activity;

(5) Such animal is police animal engaged in activities by the city;

(6) Such animal is a tracking animal and is being used by or with the permission of the city;

(7) Such animal is a certified service animal serving a disabled person;

(d) Underground electronic fencing system:

(1) An underground electronic fencing system used to restrain an animal on private property shall keep an electronically restrained animal a minimum distance of ten feet from any adjacent public sidewalk, public alley or public street;

(2) The property owner or person in control of the property shall be required to erect and maintain a sign alerting the general public that an animal is contained on the posted property by an underground electronic fencing system. The sign shall not be smaller than six inches by nine inches in size and not larger than two feet by one foot. The written warning language on the sign shall not be smaller than three quarters of an inch in height. The sign shall be conspicuously placed as to clearly inform the approaching general public of the underground electronic fencing system;

(3) An animal designated as being a dangerous animal or a potentially dangerous animal under Article IX of this chapter and/or under Minnesota Statute 357.50 shall not be primarily restrained by an underground electronic fencing system;

(4) The property owner or person in control of the property operating an underground electronic fencing system for the purpose of restraining an animal shall be required to maintain the underground electronic fencing system in an effective and proper working order;

(e) A person using a fencing system as the primary means of restraint for an animal may not continue to use the fencing system as the primary means of restraint for that animal if that animal's behavior results in:

(1) Two convictions within a 12-month period for violating any of the provisions set forth in Section 6-32, referencing 6-31(b)(3), 6-34(a), 6-35 and/or 6-36, of this Code; or

(2) One conviction for violating any of the provisions set forth in Section 6-32, referencing 6-31(b)(3), 6-34(a), 6-35, 6-36 or 6-92(a), of this Code and evidence the animal inflicted injury to a human or to another domestic animal.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 5, 1999)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 25, 1999
Approved October 25, 1999
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 8, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-1108-01 Arrowhead Development Corporation submitting:

(a) Petition for the permanent street improvement plus sanitary sewer, storm sewer, gas and water utilities for Lots 1-5, Block 1, Lots 1-5, Block 2 and Lots 1-10, Block 5, Maple Ridge First Addition and sanitary sewer and water utilities for Lots 6-11, Block 3, and Lots 11-15, Block 5, Maple Ridge First Addition. -- Assessor

(b) Waiver agreement waiving rights to public hearing by special assessment board for the construction of permanent street and utility improvements in Maple Ridge First Addition. -- Engineer

99-1108-02 Thomas Kaiser, et al. (four signatures) submitting petition to vacate East Second Street between 36th Avenue East and approximately 37th Avenue East and First Street. -- Assessor

99-1108-03 Spirit Bay Development Company submitting petition to vacate the utility easement located on east edge of Lots 3 and 5, Block 4, Spirit Cove Division. -- Assessor

99-1108-16 Environmental Troubleshooters, Inc., submitting trenching investigation update conducted at the Women's Coalition shelter (99-0771R). -- Received

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REPORTS OF OFFICERS

99-1108-04 Assessor submitting letter for confirmation of the assessment roll levied to defray the assessable portion of Contract No. 5325 for demolition of buildings. -- Clerk

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REPORTS OF BOARDS AND COMMISSIONS

99-1108-05 Board of zoning appeals minutes of September 28, 1999, meeting. -- Received

99-1108-06 Duluth airport authority: (a) Minutes of: (1) September 21 (regular); (2) September 21, 1999, (special) meetings; (b) Unaudited balance sheet for month ended August 31, 1999. -- Received

99-1108-07 Heritage preservation commission minutes of September 8, 1999, meeting. -- Received

99-1108-08 Housing and redevelopment authority of Duluth minutes of September 28, 1999, meeting. -- Received

99-1108-09 Planning commission minutes of September 14, 1999, meeting. -- Received

99-1108-10 Tree commission minutes of September 14, 1999, meeting. -- Received

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REPORTS OF COUNCILORS

Councilor Swapinski stated that he anticipates being sworn in shortly as the new District 7A state representative and with that he will be submitting his resignation from the city council.

The council discussed the need to start the process to fill the upcoming vacancy and instructed the city clerk to advertise for the position and provide the council with the materials that were used last time there was a council vacancy.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Elijah stated that, based on his experiences, he felt that Duluth has a poor climate to attract businesses and a poor work ethic.

- - -

LoAnn Hilde stated that she felt that there were discrepancies between the city and state zoning codes that need to be addressed as it relates to a current community unit development project.

- - -

Kay L. Lewis expressed her concern over the safety of the public entering the new technology center which is still under construction and that certain fire escapes on Michigan Street between Lake Avenue and First Avenue East are in poor condition.

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Peggy Marrin reviewed her letter regarding Bayfront Visions that was published in the newspaper.

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR EDWARDS:

WHEREAS, on November 2, 1999, 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. 99-1108-11) at 7:30 p.m., November 8, 1999, and ascertained the number of ballots cast at said election and thereby declared that at said election there were cast 25,720 votes, said votes having been cast in the following manner:

THAT for the office of mayor, Gary L. Doty received 14,921 votes, Greg Gilbert received 10,434 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT for the offices of councilor at large, Herb W. Bergson received 12,263 votes, Ken Hogg received 13,014 votes, Donny Ness received 14,187 votes, Eric J. Ringsred received 4,494 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT for the office of councilor, first district, Mary K. Finnegan received 3,087 votes, Rob Stenberg received 3,119 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT for the office of councilor, third district, Marcia M. Hales received 1,623 votes, Russ Stewart received 1,917 votes and candidates receiving write-in votes as indicated on the canvassing board report;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

THAT for the office of councilor, fifth district, Isobel Rapaich received 2,057 votes, Russell Stover received 2,926 votes and candidates receiving write-in votes as indicated on the canvassing board report;

NOW, THEREFORE, BE IT RESOLVED, that Gary L. Doty, having received the majority of all votes cast at said election for the office of mayor is hereby declared duly elected for terms of four years.

FURTHER RESOLVED, that Ken Hogg and Donny Ness, having received the highest numbers of the votes cast at said election for the offices of councilor at large, are hereby duly elected for a term of four years.

FURTHER RESOLVED, that Rob Stenberg, having received the majority of all votes cast at said election for the office of councilor, first district, is hereby duly elected for a term of four years.

FURTHER RESOLVED, that Russ Stewart, having received the majority of all votes cast at said election for the office of councilor, third district, is hereby duly elected for a term of four years.

FURTHER RESOLVED, that Russell Stover, having received the majority of all votes cast at said election for the office of councilor, fifth district, is hereby duly elected for a term of four years.

Resolution 99-0769 was unanimously adopted.

Approved November 8, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Lake Superior Office Furniture, Inc., be and hereby is awarded a contract for furnishing and delivering office components for the fire department in accordance with specifications on its low specification bid of \$12,061.09, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2109, Object E920.

Resolution 99-0770 was unanimously adopted.

Approved November 8, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license subject to departmental approvals with any specific restrictions:

AAD Temple, 201 East First Street, for November 14, 1999, with James LeBlanc, manager.

Resolution 99-0777 was unanimously adopted.

Approved November 8, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Duncan Industries be and hereby is awarded a contract for furnishing and delivering 200 parking meter mechanisms for the traffic operations division in accordance with specifications on its low specification bid of \$32,802, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2109, Object E951.

Resolution 99-0781 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved November 8, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

ANIMAL HUMANE BOARD

Patricia Grahek for a term expiring October 31, 2001, replacing Mary Stromdahl who resigned.

Resolution 99-0762 was unanimously adopted.

Approved November 8, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

PARKING COMMISSION

Michael Polzin (at large) for a term expiring July 1, 2002, replacing Judith Maki.

John Cummings (District 1) for a term expiring July 1, 2001, replacing Anthony Wisocki.

Valerie Ouellette (District 3) for a term expiring July 1, 2002, replacing Roger Johnson.

Terry Fawcett (District 5) for a term expiring July 1, 2002, replacing Harold Puhl.

Resolution 99-0763 was unanimously adopted.

Approved November 8, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

PARKS AND RECREATION COMMISSION

Gregory Meagher (District 2) for a term expiring February 13, 2001, replacing David Robinson who resigned.

Resolution 99-0764 was unanimously adopted.

Approved November 8, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

WATER AND GAS SERVICE HEARING BOARD

Edwin S. Levey for a term expiring September 1, 2002, replacing Larry Bubacz.

Resolution 99-0768 was unanimously adopted.

Approved November 8, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

DULUTH HOUSING COMMISSION

Gary Eckenberg (at large) for a term expiring November 8, 2002, replacing Kay Slack.

DULUTH HOUSING TRUST FUND BOARD

Gary Eckenberg (at large) for a term expiring September 30, 2002, replacing Kay Slack.
Resolution 99-0772 was unanimously adopted.

Approved November 8, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

ANIMAL HUMANE BOARD

Marcia Opie for a term expiring October 31, 2004.

Resolution 99-0773 was unanimously adopted.

Approved November 8, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth desires to hire a research company; and

WHEREAS, the city desires to hire a research company to provide the services required to provide a natural resources inventory; and

WHEREAS, Natural Resources Research Institute, Inc., has submitted a proposal for a natural resources inventory in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Natural Resources Research Institute, Inc., to provide the city with such natural resources inventory services.

BE IT FURTHER RESOLVED, that the cost of said services, estimated at \$9,298, will be payable from the Special Revenue and General Fund 210 and 100, Dept./Agency 030 and 500, Organization 2175 and 2010, Object 5441.

Resolution 99-0766 was unanimously adopted.

Approved November 8, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

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

Section 1. Recitals.

1.01. The city is working cooperatively with the town of Duluth and the town of Lakewood, both of Saint Louis County, Minnesota (the "towns"), to plan, design and construct a wastewater collection system for the North Shore planning area (the "wastewater collection system").

1.02. Local funds contributed by the city and the towns were used to produce a waste water facilities plan in 1998, but additional funds are needed to complete planning and design of the wastewater collection system.

1.03. The city and the towns have submitted a petition to the Minnesota pollution control agency for the creation of the Duluth/North Shore Sanitary District (the "sanitary district"), pursuant to Minnesota Statutes, Chapter 115, Sections 115.18 through 115.37. The sanitary district will

own and operate the wastewater collection system. It is anticipated that the proceedings for creation of sanitary district will be completed by late spring in the year 2000.

1.04. The city intends to apply to the Minnesota public facilities authority (the "PFA") on behalf of itself and the towns, for financial assistance to be used for the reimbursement or payment of design, engineering and legal costs incurred in anticipation of construction of the wastewater collection system (the "project") and creation of the sanitary district.

1.05. The city and the towns estimate that it will require financial assistance from the PFA in the form of one or more tax exempt loans in the maximum principal amount of \$225,000 (the "obligations").

1.06. The payment of the obligations will be assumed, by refunding, assignment, or otherwise, by the sanitary district upon its creation.

1.07. The town of Duluth has agreed to pay its proportionate share (\$140,250) of the obligations in the event the sanitary district is not created. Saint Louis County has made an appropriation of funds to pay the town of Lakewood's proportionate share of the obligations (\$17,505) in the event the sanitary district is not created.

1.08. The city has the legal authority to apply for such financial assistance, and the institutional, managerial and financial capacity to ensure proper design and engineering of the project and repayment of the financial assistance.

1.09. The Internal Revenue Code of 1986, as amended, and Treasury Regulations Section 1.150-2 promulgated thereunder, require that in order for the city to use the proceeds of an issue of tax exempt obligations to reimburse an original expenditure paid before the issue date of the obligations, the city must adopt an official intent for the original expenditure not later than 60 days after payment thereof.

Section 2. Application for financial assistance. The appropriate officers of the city are authorized and directed to apply to the PFA for financial assistance for the project.

Section 3. Expenditures. The city reasonably expects to incur expenditures with respect to the project in advance of issuance of obligations. Preliminary expenditures incurred with respect to the project will exceed 20 percent of the obligations.

Section 4. Reimbursement.

4.01. The city reasonably expects that expenditures for the project will be reimbursed from the proceeds of the obligations.

4.02. The reimbursement allocation is made not later than 18 months after the later of the date the original expenditure is paid; or the date the project is placed in service or abandoned, but in no event more than three years after the original expenditure is paid.

Section 5. Condition precedent to issuance of the obligations. Prior to issuing the obligations to the PFA, the city will enter into a written agreement with the towns pursuant to which the city and towns will each agree to pay their proportionate share of the obligations.

Resolution 99-0741 was unanimously adopted.

Approved November 8, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers hereby authorize Amendment #1 to Agreement #18223 with Damberg, Scott, Gerzina, Wagner, for the sum of not to exceed \$25,000, from various funding sources, as follows:

25% Water Fund 510, Ag. 900, Org. 0505, Obj. 5533 (\$6,250);

25% Gas Fund 520, Ag. 900, Org. 0505, Obj. 5533 (\$6,250);

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

35% Sewer Fund 531, Ag 500, Obj. 5532, (\$8,750);

15% Storm Water Fund 535, Ag. 500, Org. 0505, Obj. 5533 (\$3,750),

for providing certain additional Phase I architectural services (as specified in Public Document No. 99-1108-14(a)) to the city of Duluth in connection with public works & utilities consolidated facility (Garfield site), 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. 99-1108-14(b).

Resolution 99-0775 was unanimously adopted.

Approved November 8, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officials are authorized to pay to John Hall and his attorney, Robert Falsani, \$28,000, in full and final settlement of the claim which arose out of a fall while on a city street, occurring on June 1, 1992; payment to be made from the self insurance fund.

Resolution 99-0783 was unanimously adopted.

Approved November 8, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-88 of the Duluth City Code, 1959, as amended, the following taxi stand be rescinded:

South side of Superior Street in front of 2122 West Superior Street.

BE IT FURTHER RESOLVED, that in accordance with the provisions of Section 33-108 of the Duluth City Code, 1959, as amended, the following parking meter zone is hereby established:

South side of Superior Street, the two most westerly spaces in front of 2122 West Superior Street.

Proposed rate to be one quarter for one hour, with two hour limit.

Resolution 99-0753 was unanimously adopted.

Approved November 8, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

BE IT RESOLVED, that in accordance with the provisions of Section 33-84 of the Duluth City Code, 1959, as amended, the following 15 minute parking, 7:00 A.M.-6:30 P.M., Monday-Saturday, zone is hereby established: north side of the Ramsey lot for 54 feet, or six spaces.

BE IT FURTHER RESOLVED, that in accordance with the provisions of Section 33-88 of the Duluth City Code, 1959, as amended, the following handicapped parking zone is hereby established: north side of the Ramsey lot for nine feet, or one space.

Resolution 99-0754 was unanimously adopted.

Approved November 8, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

RESOLVED, that the city is hereby authorized to accept grant monies up to \$176,540 from the Minnesota department of public safety to reimburse expenditures related to the grant to expand local capacity to combat gangs.

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 Grant Fund 215-200-2456-4230.

Resolution 99-0758 was unanimously adopted.

Approved November 8, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies up to \$286,725 from the Minnesota department of public safety for expenditures related to the criminal gang strike force member replacement grant. The St. Louis County sheriff's department as a partner agency is also 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 Grant Fund 215-200-2455-4230.

Resolution 99-0759 was unanimously adopted.

Approved November 8, 1999

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:

In front of 2316 West Second Street;

In front of 4612 West Eighth Street;

In front of 418 South 18th Avenue East;

In front of 120 North 25th Avenue West;

In front of 521 North 27th Avenue West;

On avenue adjacent to 107 West Fourth Street.

Resolution 99-0774 was unanimously adopted.

Approved November 8, 1999

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered at this meeting:

Resolution 99-0765, confirming appointment of Ruth Ann Eaton to planning commission replacing Paul Huston; and Resolution 99-0767, confirming appointment of Carl Crawford to human rights commission replacing Sheldon Grafstein, by Councilor Rapaich, were introduced for discussion.

Councilor Rapaich moved to table both resolutions for interviews, which motion was seconded and unanimously carried.

- - -

Resolution 99-0782, by Councilor Edwards, awarding contract to Viking Electric Supply, Inc., for four street luminaries, in the amount of \$24,282, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

In response to Councilor Hogg's questioning, Administrative Assistant Hartl noted that these street lights have been completely destroyed by vehicles that have collided into them and that funding will come in part from the insurance of those vehicles.

Resolution 99-0782 was adopted as follows:

BY COUNCILOR SWAPINSKI:

RESOLVED, that Viking Electric Supply, Inc., be and hereby is awarded a contract for furnishing and delivering four street luminaries for the traffic operations division in accordance with specifications on its low specification bid of \$24,282, terms net 30, FOB destination, \$20,000 payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2109, Object E952 and \$4,282 payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2109, various objects.

Resolution 99-0782 was unanimously adopted.

Approved November 8, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0771, by Councilor Prettner Solon, authorizing an agreement with Women's Coalition, Inc., for \$100,000, was introduced for discussion.

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

Craig Wilson, Environmental Troubleshooters, Inc., reviewed the contents of their report (Public Document No. 99-1108-16) and the background work that went into compiling it. He noted that there was never a gasoline station there, just the demolition materials from a gas station that was located elsewhere, and that no asbestos was found on the site. He noted that even with not finding any containments, the applicant has developed a contingency plan that will be reviewed and monitored by the Minnesota pollution control agency (MPCA).

Jonathan Smith, MPCA technical analyst and project manager, explained the voluntary investigation and clean-up program and noted the role of the MPCA to oversee, direct and approve these sort of trench cleaning programs. He stated that the MPCA is comfortable with the extent of the work that has been done so far.

Rebecca Lewis, Women's Coalition architect, responded to Councilor Edwards' questioning that a great deal of attention has been spent to have the design structure fit into the existing designs of the neighborhood.

Councilor Prettner Solon reviewed that the memo from James Mohn, physical planning division, and Robert Asleson, assistant city attorney, made the comparison between the two different footprints very easy.

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

Barb Hill noted that, because she does not live within 300 feet of the project, she was not notified about the project, but felt that she will be affected by it. She felt the house is huge and that, with it being built with bulletproof glass, violence is anticipated. Ms. Hill further commented that, with other changes in the neighborhood, the residents have been included in the decision making and the neighborhood has been put first, but that was not the case here.

Joy Dorsher felt this area is the truly only green space in the neighborhood for the youth. She added that the traffic on Eighth Street, especially in the summer when there is youth baseball being played, creates a very unsafe situation and thus if a police car needs to access this proposed location that the safety will be greatly affected. In conclusion, Ms. Dorsher felt that shelters for battered women should be anonymous, and because of the size of this structure, it is definitely not anonymous.

LoAnn Hilde requested the council to table this issue for further review, feeling that the Women's Coalition did not completely represent their knowledge of the facts on their environmental impact survey. She further felt that this structure resembles more of an office complex or apartment house than a single family residence.

Ms. Hilde also read a statement from Polly Hassenstab stating her objections to this project, noting that the changes that are being contemplated were not previously approved, that this is not an enhancement for the neighborhood and that smoking should not be allowed in a building housing children.

Patricia O'Keefe, Women's Coalition representative, stated that currently anonymity of shelters is not viewed the same as in the past, noting that it is felt that violence toward women is a issue that the community should take responsibility and commitment for. In answering Councilor Gilbert's questioning regarding the difference between a "shelter" and "transitional housing," she stated that it is just the use of different terminology, depending on who is funding the project, because some sources fund shelters, which provides housing for less than 30 days, and others fund transitional housing, which provides housing for longer than 30 days.

William Burns, attorney representing the Women's Coalition, stated that the courts have ruled that the prior actions of the city council of issuing a special use permit for this project has been ruled as proper and legal. He noted that while this property has been used by the neighborhood in the past, everyone should be aware that it is now, and has always has been, private property. In conclusion, he noted that the environmental issues that have been raised have been reviewed by the Environmental Trouble Shooters and the MPCA and have been found not to have an adverse environmental effect.

Peggy Marrin, registered licensed psychologist who has worked with battered women, noted that anonymity is important and suggested that existing houses be selected and rotated, because of violent men.

Councilor Prettner Solon reviewed the rights of the private property owner to develop their property if it is done within the limits of the code with the necessary approvals.

To Councilor Hogg's concern regarding safety in the area of this property, Keith Hamre, community development and housing division manager, noted that the police have stated they have not had a problem relative to an abusive male coming to an existing location operated by this group. He stated that with the new comprehensive plan that is being prepared they will try to provide more open spaces for the neighborhood. In conclusion, Mr. Hamre stated that in the future there needs to be discussions regarding a clearer definition of when an issue is an administrative decision versus a council approval.

To Councilor Gilbert's questioning, Mr. Mohn noted that under the zoning code, which is the basis by which the special use permit was issued, the structure is a one story building with a walkout basement.

Councilor Prettner Solon requested that in the future the notification range be greater than the current 300 feet.

Resolution 99-0771 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 26, 1998, the city established the Women's Coalition new shelter construction project pursuant to city council Resolution No. 98-0947.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute an agreement substantially in the form of the copy on file in the office of the city clerk as Public Document No. 99-1108-15 with Women's Coalition, Inc., to implement the above project, payment for said services in an amount not to exceed \$100,000, payable out of the 1999 Federal

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Program Fund 262 - community development - Women's Coalition New Shelter Project Account No. 6210.

Resolution 99-0771 was unanimously adopted.
Approved November 8, 1999
GARY L. DOTY, Mayor

- - -

Resolution 99-0779, by Councilor Prettner Solon, approving DEDA's general, debt service, capital projects and storefront loan fund budgets for 2000, was introduced for discussion.

Councilor Hogg requested that prior to approving the Duluth economic development authority (DEDA) budget that there be a committee meeting to discuss the work plan and address how that will be accomplished with a shrinking budget.

To Councilor Hogg's questions, Cynthia Albright, business development and planning department acting director, stated that the DEDA budget needs to be approved by the end of the year but does not depend upon the levy that the council must approve.

Councilor Prettner Solon stated that, while DEDA has had their own discussions relative to revenue options for DEDA in the future, there needs to be discussions with the council, but meetings will not be accomplished by the end of the year, so it is important to proceed at this time and then later make necessary changes as need be.

Resolution 99-0779 be adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the city council of the city of Duluth does hereby approve the general fund budget, the debt service budget, the capital projects fund budget and the storefront loan fund budget of the Duluth economic development authority for the year 2000.

Resolution 99-0779 was adopted upon the following vote:

Yeas: Councilors Edwards, Fena, Gilbert, Hales, Prettner Solon, Rapaich, Swapinski and President Keenan -- 8

Nays: None -- 0

Abstention: Councilor Hogg -- 1

Approved November 8, 1999

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the city hereby accepts a gift in the amount of \$50,000 from Lois Paulucci to be used for expenses related to the creation of a new Bayfront Festival Park, which gift shall be deposited in the Capital Improvements Fund 450 - Bayfront Festival Park.

Resolution 99-0794 was unanimously adopted.

Approved November 8, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0703, authorizing the execution of an agreement with Steve Dornfeld, Inc., to operate the concession and manage the golf facilities at the Enger Park golf course; and Resolution 99-0704, authorizing the execution of an agreement with Paul Schintz to operate the concession and manage the golf facilities at The Lester Park golf course, by President Keenan, were introduced for discussion.

Councilor Hogg stated that he would like to see the council discuss, in the coming year, the long term issues relative to the long term operations and thus moved to amend resolutions 99-0703 and 99-0704 by adding the following paragraph:

“RESOLVED FURTHER, that the city council requests the administration to schedule a committee of the whole meeting with the council no later than August 1, 2000, to discuss the long term operation of the golf courses,” which motion was seconded and unanimously carried.

Resolutions 99-0703 and 99-0704, as amended, were adopted as follows:

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Steve Dornfeld, Inc., to operate the concessions and manage the golf facilities at the Enger Park Golf Course for a consideration of \$40,000 to be paid from the golf fund, said agreement filed in the office of the city clerk as Public Document No. 99-1108-12.

RESOLVED FURTHER, that the city council requests the administration to schedule a committee of the whole meeting with the council no later than August 1, 2000, to discuss the long term operation of the golf courses.

Resolution 99-0703, as amended, was unanimously adopted.

Approved November 8, 1999

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Paul Schintz to operate the concessions and manage the golf facilities at the Lester Park Golf Course for a consideration of \$40,000 to be paid from the golf fund, said agreement filed in the office of the city clerk as Public Document No. 99-1108-13.

RESOLVED FURTHER, that the city council requests the administration to schedule a committee of the whole meeting with the council no later than August 1, 2000, to discuss the long term operation of the golf courses.

Resolution 99-0704, as amended, was unanimously adopted.

Approved November 8, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0776, by Councilor Fena, authorizing a five-year lease extension with the U.S. EPA covering part of Outlot D Edgeshore Park Division, was introduced for discussion.

To Councilor Hogg’s questions of, if there were rent payments, and if so, at what amount, and have they ever been increased in 25 years, Mr. Hartl responded that the answer to those questions has not been received yet.

Councilor Hogg moved to table the resolution until that information could be provided, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR PRETTNER SOLON

99-031 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED AT 1415 SUNDBY ROAD (KAAKE).

- - -

BY COUNCILOR PRETTNER SOLON

99-032 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY ON MICHIGAN STREET WEST OF 21ST AVENUE WEST TO ANDERSON FURNITURE COMPANY, INC., FOR \$70,000.

- - -

BY COUNCILOR PRETTNER SOLON

99-033 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF PART OF LOTS 4, 6, 8, 10 AND 12, EAST FIRST STREET, DULUTH PROPER FIRST DIVISION, TO TECH VILLAGE, LLC, SUBJECT TO AN EASEMENT FOR LIGHT, VIEW AND BUFFER SPACE.

- - -

BY PRESIDENT KEENAN

99-028 - AN ORDINANCE AMENDING SECTION 5 OF THE CITY CHARTER TO INCREASE THE PAY OF CITY COUNCILORS FROM \$625 PER MONTH TO \$833 PER MONTH.

- - -

BY COUNCILOR HALES

99-030 - AN ORDINANCE AMENDING SECTION 6-72 OF THE DULUTH CITY CODE RELATING TO THE DEFINITION OF NONDOMESTICATED ANIMAL.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR RAPAICH

99-029 (9425) - AN ORDINANCE AUTHORIZING THE POLICE DEPARTMENT TO CONDUCT CRIMINAL HISTORY BACKGROUND INVESTIGATIONS ON APPLICANTS FOR CERTAIN POSITIONS WITH THE CITY, ADDING SECTION 13-39.1 TO THE CITY CODE.

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

- - -

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

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9425

BY COUNCILOR RAPAICH:

AN ORDINANCE AUTHORIZING THE POLICE DEPARTMENT TO CONDUCT CRIMINAL HISTORY BACKGROUND INVESTIGATIONS ON APPLICANTS FOR CERTAIN POSITIONS WITH THE CITY, ADDING SECTION 13-39.1 TO THE CITY CODE.

The city of Duluth does ordain:

Section 1. That Section 13-39.1 is hereby added to the Duluth City Code, 1959, to read as follows:

Sec. 13-39.1. Criminal history background checks.

The police department is hereby authorized to conduct criminal history background checks on applicants for city employment or for volunteer positions, subject to the following:

(a) The criminal history background check may only be conducted on finalists for positions and only when the secretary has determined that conviction of a crime may relate directly to fitness of applicants for the position;

(b) The applicant must have consented in writing to the criminal history background check and to the release of the information obtained to the person or

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

persons involved in the hiring decision. An applicant's failure to consent to the background check is sufficient basis to disqualify the applicant for the position sought.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 19, 1999)

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

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

Nays: None -- 0

Passed November 8, 1999
Approved November 8, 1999
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, November 18, 1999, 5:00 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Fena, Gilbert, Hales, Hogg, Prettner Solon, Rapaich and President Keenan -- 8

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-1118-01 Evensen Dodge, Inc., submitting: (a) Bid results; (b) Official statement pertaining to \$2,475,000 G.O. Great Lakes Aquarium project, Series 1999E, \$1,745,000 G.O. sewer utility revenue bonds, Series 1999F, \$1,220,000 G.O. improvement bonds, Series 1999G, \$1,985,000 G.O. equipment certificates of indebtedness, Series 1999H (99-0788R, 99-0789R, 99-0790R, 99-0791R). -- Received

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MOTIONS AND RESOLUTIONS

Resolution 99-0788, providing for the issuance, sale and delivery of \$2,475,000 general obligation bonds (Great Lakes Aquarium project), Series 1999E; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof; Resolution 99-0789, providing for the issuance, sale and delivery of \$1,745,000 general obligation sewer utility revenue bonds, Series 1999F; establishing the terms and form thereof; and awarding the sale thereof; Resolution 99-0790, providing for the issuance, sale and delivery of \$1,220,000 general obligation improvement bonds, Series 1999G, of the city of Duluth, Minnesota; establishing the terms and form thereof; creating a bond fund therefor; and awarding the sale thereof; and Resolution 99-0791, providing for the issuance, sale and delivery of \$1,985,000 general obligation equipment certificates of indebtedness, Series 1999H; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof, by Councilor Hogg, were introduced for discussion.

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

Katherine Kardell was present on behalf of Evensen Dodge, Inc., financial consultants, and stated that the city still has A1 and A+ ratings with Moody's Investors Service and Standard & Poor Ratings Group, respectively. She stated that both rating agencies have some concern about the draw-down in the city's general fund balance and the fact that the city has continued to be below their ten percent target level for multiple years. Ms. Kardell continued by saying that the results of the four bond sales were favorable.

Resolutions 99-0788, 99-0789, 99-0790 and 99-0791 were adopted as follows:

BY COUNCILOR HOGG:

BE IT RESOLVED by the city council of the city of Duluth, Minnesota (the "City"), as follows:
Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475 and all other enabling statutes, the City is authorized to issue its general obligation bonds to provide the funds necessary to match state, private and federal grants for projects within the City's boundaries, which bonds are to be payable from annual ad valorem taxes or other revenues of the City.

1.02 The city council has, by Ordinance No. 9412 adopted on April 26, 1999, authorized the issuance and sale of general obligation bonds of the City to finance a portion of the public

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

development costs associated with construction of the Great Lakes Aquarium at Lake Superior Center located in the City (the "Project"), in an amount not to exceed \$2,500,000.

1.03 As required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), the City has, on November 18, 1999, held a public hearing on the issuance of general obligation bonds to finance a portion of the Project.

1.04 The city council has solicited proposals for the sale of the General Obligation Bonds (Great Lakes Aquarium Project), Series 1999E (the "Bonds"), in the principal amount of \$2,475,000 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 Cronin & Co. Inc. of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$2,455,509.00, plus accrued interest on the total principal amount from December 1, 1999, 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, 1999, 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	Year	Amount
2001	\$ 200,000		\$270,000
2002	225,000		285,000
2003	235,000		295,000
2004	245,000		305,000
2005	250,000		325,000

2.02 The Bonds maturing in the years 2001 through 2008 shall not be subject to redemption and prepayment before maturity, but those maturing on or after February 1, 2009, shall each be subject to redemption and prepayment at the option of the City on February 1, 2008, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City. If only part of the Bonds having a common maturity date are called for prepayment, the specific Bonds to be prepaid will be chosen by lot. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to the Bond Registrar designated below and to the registered owner of each Bond to be redeemed, at the owner's address shown on the registration books of the City, but the failure to give such mailed notice, or defect in any notice so mailed, shall not affect the validity of the proceedings for the redemption of any Bond not affected by such failure or defect.

Notice of redemption and prepayment shall also be given in accordance with the terms of the Representation Letter described in Section 2.06A 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, 2000. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS
CITY OF DULUTH
GENERAL OBLIGATION BOND (GREAT LAKES AQUARIUM PROJECT)
SERIES 1999E

R-____ \$_____

<u>Interest</u>	<u>Maturity Date</u>	<u>Date of</u>	<u>CUSIP</u>
<u>Rate</u>	February 1, ____	<u>Original Issue</u>	
		December 1, 1999	

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, 1999, 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, 2000. 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 \$2,475,000, 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 November 18, 1999 (the "Resolution"), and is issued for the purpose of providing funds to provide the local match of grant funds from the State of Minnesota to pay part of the public development costs associated with construction of the Great Lakes Aquarium at Lake Superior Center located in the City and for payment of part of the interest cost of said bond issue. The principal hereof and interest hereon are payable primarily from sales tax revenues 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 2001 through 2008 are not subject to redemption before maturity, but those maturing on and after February 1, 2009, are each subject to redemption and prepayment at the option of the City on February 1, 2008, and on any date thereafter, in whole or in part, and if in part at the option of the City and in such manner as the City shall determine and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to each registered owner of a Bond to be redeemed, but no defect in or failure to give such mailed notice of redemption shall affect the validity of the proceedings for redemption of any Bond not affected by such failure or defect. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond a bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

Authorized Representative

REGISTRATION CERTIFICATE

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

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
12/___/99	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

ASSIGNMENT

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

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint _____

_____ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

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

Signature Guaranteed:

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

Section 3. Covenants, Accounts and Representations.

3.01 The City hereby creates a separate construction account within the City's Capital Improvement Project Fund (Fund 450) to which there shall be credited the proceeds for the Bonds, less accrued interest paid by the Purchaser, and less \$113,715 for capitalized interest, together with any additional funds which may be available and are appropriated for the payment of costs of the Project. This Account shall be used only to pay or reimburse the public development costs of the Project and costs of issuance of the Bonds (not to exceed \$49,500, including underwriter's discount), as such payments become due.

3.02 A. The City imposes certain sales taxes pursuant to Minnesota Laws 1980, Chapter 511, Section 1, Subdivision 2 and Sections 2 and 3, as amended, and Sections 42A-2(b) and 42A-49 of the Duluth City Code (the "Sales Tax Act") on certain sales of food and beverages and lodging within the City (the "Sales Tax"). The Sales Tax on certain sales of food and beverages is 1½% on gross receipts described in such sections and the Sales Tax on certain lodging is 2½% on gross receipts described in such sections. (Revenues received from ½% of the tax authorized by the Sales Tax Act are herein referred to as the "½% Sales Tax.") Sums generated from time to time from the ½% Sales Tax are not pledged to pay the principal of and interest on the Bonds. The Council hereby determines that the Project is a "tourism facility" within the meaning of the Sales Tax Act.

B. Sales Tax revenues, other than revenues received from the ½% Sales Tax (the "Pledged Sales Tax"), are hereby pledged and appropriated to pay the principal of and interest on the Bonds when due.

3.03 A separate debt service account is hereby created and designated as the "G.O. Bonds (Great Lakes Aquarium Project), Series 1999E Debt Service Account" (the "Debt Service Fund") within the City's Debt Service Fund. There shall be transferred from revenues of the Pledged Sales Tax, in amounts 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 city treasurer, in accordance with policies established by the city council. 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 Pledged Sales Tax revenues. Into the Debt Service Fund shall be

credited the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds and capitalized interest in the amount of \$113,715.

3.04 It is estimated that the Pledged Sales Tax 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. The City reserves the right to issue additional bonds and pledge Sales Tax revenues on a parity with the pledge herein made.

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 the Capital Improvement Project Fund and in the Debt Service Fund may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 4. Tax Covenants.

4.01 A. 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.

B. The City shall comply with requirements necessary under the Code to establish and maintain the exclusion from gross income under Section 103 of the Code of the interest on the Bonds, including, without limitation (i) requirements relating to temporary periods for investment (ii) limitation on amounts invested at a yield greater than the yield on the Bonds, and (iii) if required, the rebate of excess investment earnings to the United States.

C. The City covenants not to use more than two percent of the proceeds of the Bonds (including, but not limited to, investment earnings, if any), to pay costs relating to the issuance of the Bonds (within the meaning of Section 147(g) of the Code).

4.02 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk.

Resolution 99-0788 was unanimously adopted.

Approved November 18, 1999

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 Section 55 of the City Charter, Minnesota Statutes, Sections 115.46 and 444.075 and Chapter 475, and other pertinent provisions of said Charter and Statutes, the City is authorized to issue its general obligation bonds to provide funds for the municipal sewer utility plant (including bonds representing part of the interest cost of the issue, within the limitations specified in Minnesota Statutes, Section 475.56), which bonds shall be a specific lien upon such plant and are payable from net revenues to be derived from the operation of the municipal sewer utility and pledged for their payment.

1.02 The city council has, by Ordinance No. 9423 adopted October 12, 1999, ordered the issuance, sale and delivery of \$1,745,000 General Obligation Sewer Utility Revenue Bonds of the City (the "Bonds"), for the payment of the costs of improvements to the municipal sewer utility and for payment of part of the interest cost of the Bonds.

1.03 The city council has solicited proposals for the sale of the Bonds and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of Cronin & Co. Inc. of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$1,724,608.70, plus accrued interest on the total principal amount from December 1, 1999, 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, 1999, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates as set forth on Exhibit A:

Year	Amount	Year	Amount
2001	\$ 70,000	2009	\$ 120,000
2002	85,000	2010	125,000
2003	90,000	2011	130,000
2004	95,000	2012	140,000
2005	100,000	2013	145,000
2006	105,000	2014	155,000
2007	110,000	2015	160,000
2008	115,000		

2.02 The Bonds maturing in the years 2001 through 2008 shall not be subject to redemption and prepayment before maturity, but those maturing on or after February 1, 2009, shall each be subject to redemption and prepayment at the option of the City on February 1, 2008, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City. If only part of the Bonds having a common maturity date are called for prepayment, the specific Bonds to be prepaid will be chosen by lot. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to the Bond Registrar designated below and to the registered owner of each Bond to be redeemed, at the owner's address shown on the registration books of the City, but the failure to give such mailed notice, or defect in any notice so mailed, shall not affect the validity of the proceedings for the redemption of any Bond not affected by such failure or defect. Notice of redemption and prepayment shall also be given in accordance with the terms of the Representation Letter described in Section 2.06 hereof.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2000. 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 mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS
CITY OF DULUTH
GENERAL OBLIGATION SEWER UTILITY REVENUE BOND
SERIES 1999F

R-____ \$_____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	February 1, ____	December 1, 1999	

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, 1999, 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, 2000. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the city council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar

when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$1,745,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to the authority contained in Section 55 of the City Charter, Minnesota Statutes, Sections 115.46 and 444.075, and Chapter 475, and all other laws and charter provisions thereunto enabling, and pursuant to Ordinance No. 9423 adopted on October 12, 1999, and a resolution adopted on November 18, 1999, by the governing body of the City (the "Resolution"), for the purpose of providing funds for improvements to the municipal sewer utility and for payment of part of the interest cost of said bond issue. The Bonds are payable from the net revenues to be derived from the operation of the municipal sewer utility of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the municipal sewer utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the Bonds, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds.

The Bonds of this series maturing in the years 2001 through 2008 are not subject to redemption before maturity, but those maturing on and after February 1, 2009, are each subject to redemption and prepayment at the option of the City on February 1, 2008, and on any date thereafter, in whole or in part, and if in part at the option of the City and in such manner as the City shall determine and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to each registered owner of a Bond to be redeemed, but no defect in or failure to give such mailed notice of redemption shall affect the validity of the proceedings for redemption of any Bond not affected by such failure or defect. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond a bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. 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:

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

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Norwest Bank Minnesota, National Association, of Minneapolis, Minnesota, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's

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attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of Norwest Bank Minnesota, National Association as Bond Registrar, in the name of the registered owner last noted below.

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
12/___/99	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

Clerk

ASSIGNMENT

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

(Name and Address of Assignee)

_____ Social Security or Other

_____ Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint _____

_____ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every

particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

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

Section 3. Revenues, Accounts and Covenants.

3.01 A. The city council covenants and agrees with the holders of the Bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this section.

The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal sewer utility in a separate Sewer Utility Operating Account within the Public Service Sewer Utility Fund maintained under Section 54 of the City Charter. Except as provided in this section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal sewer utility, and to maintain such reasonable reserves for such expenses as the director of finance shall determine to be necessary from time to time in accordance with policies established by the city council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all sewer utility bonds when due.

B. The City has created a separate construction account within the Public Service Sewer Utility Fund to which there shall be credited \$1,745,000 from the proceeds of the Bonds, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, together with any additional funds which may be available and are appropriated for improvements to the utility. This account shall be used only to pay expenses duly approved and allowed which, under generally accepted accounting principles, constitute capital expenditures for the completion of improvements to the sewer utility and costs of the issuance of the Bonds.

C. Until the Bonds issued hereunder are fully paid or duly called for redemption, or otherwise discharged, the City will also maintain a separate debt service account (the "Sewer Debt Service Fund") in the Public Service Sewer Utility Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the sewer utility. The treasurer shall credit to the Sewer Debt Service Fund all proceeds of the Bonds in excess of \$1,745,000, less amounts used to pay a part of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56, plus the amount of accrued interest on the Bonds. The treasurer shall transfer from the Sewer Utility Operating Account to

the Sewer Debt Service Fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the Bonds, and all charges due to the Bond Registrar. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the city council.

D. Surplus utility revenues from time to time received in the Sewer Utility Operating Account, in excess of payments due from and reserves required to be maintained in the Sewer Utility Operating Account and in the Sewer Debt Service Fund, may be used for necessary capital expenditures for the improvement of the municipal sewer utility, for the prepayment and redemption of bonds constituting a lien on the municipal sewer utility, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

3.02 If the balances in the Debt Service Fund are ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balances therein are sufficient. It is estimated that the net revenues herein pledged and appropriated to said Debt Service Fund will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the city council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 4. Tax Covenants; Miscellaneous.

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

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would

cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk.

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 99-0789 was unanimously adopted.

Approved November 18, 1999

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

- - -

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 A. Under and pursuant to the provisions of Chapter 475 of Minnesota Statutes and other pertinent provisions of said Statutes and the home rule charter of the City, the City is authorized to issue its general obligation bonds to finance the cost of local public improvements, and the city council may pledge the full faith and credit and taxing powers of the City for the payment of the principal and interest on such indebtedness.

B. The city council has, by resolutions adopted on the following dates, ordered the following local public improvements, as more fully described in reports filed with the city clerk by the Special Assessment Board pursuant to and in accordance with Chapter IX of the City Charter (the "Public Improvements"); and the Council determined to defray the following portions of the cost of the improvements set forth below to be assessed against benefitted property:

Order in Resolution No.	Date Resolution Passed	Assessable Cost	Project Description
99-0076	2/8/99	\$16,000	Sanitary sewer in Hagberg Street from 425' to 645' west
99-0119	2/8/99	245,000	Creekside Circle from Apple Ridge Drive to 1094' east
99-0231	3/22/99	13,665	Sanitary sewer in Grand Avenue Place from Gogebic 230' southwest
99-0271	4/12/99	4,742	Overlay on 32 nd Avenue West from Superior-Carlton
99-0264	4/12/99	60,710	Bayhill Drive from Pulaski Street to Spirit Cove Drive
99-0400	5/24/99	53,916	Blackman
99-0401	5/24/99	67,536	McFarlane
99-0398	5/24/99	80,000	Sidewalks
99-0257	3/22/99	33,330	Sanitary sewer main from the intersection of Eden Lane and Belmont Road
99-0600	7/26/99	450,000	Opus - Trinity Road/Central Entrance
99-0757	10/25/99	157,000	33 rd Avenue West from Michigan to Superior Street

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

C. Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$1,220,000 General Obligation Improvement Bonds, Series 1999G, to be dated December 1, 1999, as the date of original issue (the "Bonds").

1.02 The city council has solicited proposals for the sale of the Bonds in the principal amount of \$1,220,000 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 Cronin & Co. Inc. of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$1,205,177.95, plus accrued interest on the total principal amount from December 1, 1999, 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, 1999, 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	Year	Amount
2001	\$ 50,000	2009	\$ 85,000
2002	60,000	2010	90,000
2003	65,000	2011	90,000
2004	65,000	2012	95,000
2005	70,000	2013	100,000
2006	70,000	2014	110,000
2007	75,000	2015	115,000
2008	80,000		

2.02 The Bonds maturing in the years 2001 through 2008 shall not be subject to redemption and prepayment before maturity, but those maturing or subject to mandatory redemption, pursuant to Section 2.01B, in the year 2009 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2008, 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, 2000. 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS
CITY OF DULUTH
GENERAL OBLIGATION IMPROVEMENT BOND
SERIES 1999G

R-_____ \$_____

Interest		Date of	
<u>Rate</u>	<u>Maturity Date</u>	<u>Original Issue</u>	<u>CUSIP</u>
	February 1, _____	December 1, 1999	

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, 1999, 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, 2000. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the city council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$1,220,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to Minnesota Statutes, Chapter 475, the City Charter and other pertinent provisions of said statutes and a resolution adopted by the governing body of the City on November 18, 1999 (the "Resolution"), for the purpose of financing local public improvements, which obligations and interest thereon will be payable from special assessments levied or to be levied against property specially benefitted by local improvements.

The Bonds of this series maturing in the years 2001 through 2008 are not subject to redemption before maturity, but those maturing, or subject to mandatory redemption, in the year 2009 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2008, and on any date thereafter upon 30 days' notice, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed. No defect or failure in such mailed notice shall affect the validity of the proceedings for redemption of any Bond not affected by such failure or defect. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered

owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

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

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

IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this Bond to be executed in its name by the signatures of the mayor and the city clerk.

Attest:

City Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

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

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
12/___/99	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

ASSIGNMENT

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

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

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

Dated: _____.

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

Signature Guaranteed:

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

Section 3. Revenues, Accounts and Covenants.

3.01 The city council covenants and agrees with the holders of the Bonds and with its taxpayers that it will assess against benefitted property the cost of the improvements to the City for the Public Improvements in an amount which is not less than 20% of the costs of such projects financed by the proceeds of the Bonds allocable to the Public Improvements. The city council further covenants and agrees that, with due diligence, it will complete the special assessment process, including any and all supplemental assessments or reassessments that may be required to lawfully assess the benefitted property.

3.02 Upon payment of the purchase price of the Bonds, the City shall credit the proceeds from the sale of the Bonds to a separate construction account (the "1999 Projects Account") within the Special Assessment Capital Projects Fund for the Public Improvements. The proper City officers are authorized and directed to pay out of such construction account from time to time as required, upon presentation of properly verified vouchers or statements of account, such amount or amounts as may be required to pay the cost of the improvements described in Section 1.01 and the costs of issuance of the Bonds.

3.03 A separate account within the Special Assessment Debt Service Fund maintained by the City is hereby created and is designated the "1999 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 1999 Improvement Bond Account shall be paid from the proceeds of the Bonds unused discount, if any, capitalized interest in the amount of \$0, plus the amount of accrued interest on the Bonds, all special assessments levied for the projects listed in Section 1.01 hereof and the ad valorem taxes levied, if any, pursuant to Section 3.04 hereof.

3.04 It is estimated that the special assessments levied and appropriated to the 1999 Improvement Bond Account will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

3.05 Proceeds of the Bonds on deposit in the 1999 Projects Account and the 1999 Improvement Bond Account may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 4. Tax Covenants; Miscellaneous.

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

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any proceeds of the Bonds and any sums from time to time held in such debt service account (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in such debt service account shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. §240.15c2-12) (the

"Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk.

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 99-0790 was unanimously adopted.

Approved November 18, 1999

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. 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. 99-0744 declaring the intention of the City to issue such certificates of indebtedness in the amount of approximately \$1,985,000 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 \$1,985,000 General Obligation Equipment Certificates of Indebtedness, Series 1999H, 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

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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 \$1,985,000 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 Norwest Investment Services, Inc. of Minneapolis, Minnesota (the "Purchaser"), to purchase the Certificates at a cash price of \$1,977,655.50, plus accrued interest on the total principal amount from December 22, 1999, to the date of delivery of the Certificates and upon condition that the Certificates mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Certificates in accordance with the Purchaser's proposal. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms, Execution and Delivery of the Certificates.

2.01 The Certificates to be issued hereunder shall be dated December 22, 1999, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Certificates shall mature on December 22 in the respective years and amounts stated and shall bear interest at the annual rates set forth on Exhibit A attached hereto:

<u>Year</u>	<u>Amount</u>
2000	\$365,000
2001	380,000
2002	395,000
2003	415,000
2004	430,000

2.02 The Certificates are not subject to redemption and prepayment before maturity.

2.03 The interest shall be payable semiannually on June 22 and December 22 in each year (each referred to herein as an "Interest Payment Date"), commencing June 22, 2000. 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 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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 1999H

R-_____ \$_____

Interest

<u>Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	December 22, _____	December 22, 1999	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from December 22, 1999, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on June 22 and December 22 of each year (each referred to herein as an "Interest Payment Date") commencing on June 22, 2000. 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 \$1,985,000, 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 18, 1999 (the "Resolution"), and is issued for the purpose of providing money, together with other available funds, for the purchase of capital equipment. The City has levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls for the years and in the amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on the Certificates, as such principal and interest respectively come due. The Certificates are not subject to redemption and prepayment before maturity.

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

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

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

IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this Certificate to be executed in its name by the facsimile signatures of the mayor and the city clerk.

Attest:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

City Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

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.

Date
12/22/99

Registered Owner
Cede & Co.
c/o The Depository Trust Company
55 Water Street
New York, NY 10041
Federal Taxpayer I. D. No.: 13-2555119

Signature of Bond Registrar

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 \$1,985,000, 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 "1999 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 \$1,985,000, 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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 99-0791 was unanimously adopted.

Approved November 18, 1999

GARY L. DOTY, Mayor

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The meeting was adjourned at 5:15 pm.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 22, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Fena, Gilbert, Hales, Hogg, Prettner Solon, Rapaich and President Keenan -- 8

Absent: None -- 0

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The minutes of council meetings held on September 13 and 20, 1999, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-1122-01 Jay Litman submitting petition to vacate a 200 foot portion bisecting four lots on Third Street and four lots on Fourth Street between 2617 East Third Street and 2618-2632 East Fourth Street. -- Assessor

99-1122-02 Shockley Communications Corporation, et al. (two signatures), submitting petition to vacate a two block segment of Fourth Avenue West between West 12th and West 13th Streets in Summit Park Division and Duluth Proper Third Division. -- Assessor

99-1122-03 Minnesota pollution control agency submitting notice of intent to approve the creation of the Duluth/North Shore sanitary district (99-0741R). -- Received

99-1122-25 Minnesota Senior Federation - Northeast Coalition submitting letter regarding the Technology Village (99-0817R). -- Received

99-1122-04 University of Minnesota - Duluth submitting acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance No. 9421 on August 23, 1999. -- Received

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REPORTS OF OFFICERS

99-1122-24 Mayor Doty submitting copy of letter appointing Bryan Brown as city attorney. -- Received

99-1122-14 Administrative assistant submitting copies of letters appointing: (a) Michael Conlan as planning and development department director; (b) Daniel Haus as fire chief. -- Received

99-1122-05 Assessor submitting letters of sufficiency to:

(a) Construct permanent street improvement plus sanitary sewer, storm sewer, gas and water utilities for Lots 1-5, Block 1, Lots 1-5, Block 2 and Lots 1-10, Block 5, Maple Ridge First Addition and sanitary sewer and water utilities for Lots 6-11, Block 3, and Lots 11-15, Block 5, Maple Ridge First Addition;

(b) Vacate East Second Street between 36th Avenue East and approximately 37th Avenue East and First Street;

(c) Vacate utility easement located on the east edge of Lots 3 and 5, Block 4, Spirit Cove Division;

(d) Vacate a two block segment of Fourth Avenue West in the antenna farm;

(e) Vacate a 200 foot portion bisecting four lots on Third Street and four lots on Fourth Street. -- Received

99-1122-06 Clerk submitting communication to city councilors canvassing board regarding First Council District recount. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

99-1122-07 Engineering division submitting monthly project status report of November 1, 1999. -- Received

99-1122-08 Parks and recreation department director submitting Lake Superior Zoological Society: (a) Financial statements for September and October, 1999; (b) Minutes of September 22, 1999, meeting. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-1122-09 Duluth transit authority minutes of September 29, 1999, meeting. -- Received

99-1122-10 Planning commission minutes of October 12, 1999, meeting. -- Received

99-1122-11 Seaway Port authority of Duluth minutes of: (a) August 26; (b) September 22, 1999, meetings. -- Received

99-1122-12 Special assessment board:

(a) Minutes of October 13, 1999, meeting;

(b) Reports of October 13, 1999, regarding the:

(1) Proposed two inch grinder-pump sanitary sewer system in Greysolon Road from 35th Avenue East to 650 feet west;

(2) Re-establishment of the assessment on Plat/Parcel 2290-990. -- Received

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REPORTS OF COUNCILORS

99-1122-13 Councilor Swapinski submitting resignation from the Duluth City Council effective November 12, 1999. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

K.L. Lewis voiced concern that there is no city bus routes to the mall and over to Stone Ridge Mall. She also stated concern that there is no sidewalk for people on to the mall area after they have gotten off of the bus on Miller Trunk to Stone Ridge. Ms. Lewis encouraged the council to get the mall connector bus back in operation.

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K.L. Lewis also expressed concern that there are aggressive groups harassing people physically and with their attitude east of Lake Avenue on First Street. She stated she does not want to have to fight to do business in Downtown Duluth.

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Hal Moore stated that the selection of the fourth district council seat should operate under democrat process by allowing the residents to vote, but it appears that it will not be followed.

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Tom Allnew stated that the elected leaders are phony and cowards and that people are going to leave America when they realize what they have lost.

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Peggy Marin stated that the fourth district council seat needs to be filled using a fair process integrating all of the applicants. She expressed concern that there is a conflict of interest with Councilor Prettner Solon applying for this district's seat while currently serving on the council, and the new council should decide this next year.

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RESOLUTIONS TABLED

Councilor Rapaich moved to remove Resolution 99-0765, confirming appointment of Ruth Ann Eaton to planning commission replacing Paul Huston, from the table, which motion was seconded and unanimously carried.

Resolution 99-0765 was adopted as follows:

BY COUNCILOR RAPAICH:

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

PLANNING COMMISSION

Ruth Ann Eaton for a term expiring December 31, 2001, replacing Paul Huston who resigned.

Resolution 99-0765 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

- - -

Councilor Rapaich moved to remove Resolution 99-0767, confirming appointment of Carl Crawford to human rights commission replacing Sheldon Grafstein, from the table, which motion was seconded and unanimously carried.

Resolution 99-0767 was adopted as follows:

BY COUNCILOR RAPAICH:

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

HUMAN RIGHTS COMMISSION

Carl Crawford for a term expiring March 1, 2000, replacing Sheldon Grafstein.

Resolution 99-0767 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

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Councilor Fena moved to remove Resolution 99-0776, authorizing a five year lease extension with the United States EPA covering part of Outlot D, Edgeshore Park Division, from the table, which motion was seconded and unanimously carried.

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

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MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

BY COUNCILOR HOGG:

RESOLVED, that the assessment roll levied to defray the assessable portion of Contract No. 5325, demolition of buildings (total assessable amount \$94,562.25), be and the same is hereby confirmed.

Resolution 99-0780 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Resolution 99-0110 to Maney International, Inc., for furnishing repair of Detroit engines and transmissions, be amended to increase the amount by \$12,337.62 for a new total of \$32,337.62, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221 (\$26,995.12) and 5404 (\$5,342.50).

Resolution 99-0793 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Johnson Insurance Consultants for professional consulting services relating to employee health benefits during the year 2000, which agreement shall be substantially in the form of Public Document No. 99-1122-15, on file in the office of the city clerk, at a cost to the city of \$13,200, which shall be payable from the group health fund - administration account.

Resolution 99-0800 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

WHEREAS, the Junior Achievement Duluth Superior area 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 Junior Achievement Duluth Superior area 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 99-0804 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license, on sale Sunday license and dancing license, for the period ending August 31, 2000, subject to departmental approvals and the payment of sales and property taxes:

Lac/Tom Investments, LTD. (J&J Limit Bar), 1426 Commonwealth Avenue, with Jon Lackner, 50 percent stockholder, and John Toman, 50 percent stockholder, transferred from Dzuck, LTD. (Limit Bar), same address.

Resolution 99-0814 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of chief engineer, water and gas, including a title change to chief engineer, utilities, which were approved by the civil service board on November 2, 1999, and which are filed with the city clerk as Public Document No. 99-1122-16, are approved. This classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees, that pay range shall remain the same, pay range 1130, \$4,452 to \$5,431 per month.

Resolution 99-0796 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

WOMEN'S COMMISSION

Mary Chairs for a term expiring September 17, 2002, replacing Amy Galarowicz.

Angela Palmer for a term expiring September 17, 2002, replacing Joan Nurminen who resigned.

Cheryl Prince for a term expiring September 17, 2000, replacing Sharon Sanders who resigned.

Resolution 99-0798 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

PARKS AND RECREATION COMMISSION

Daniel Roth (land management) for a term expiring February 13, 2000, replacing Duane Fogard who resigned.

Resolution 99-0808 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to acquire Lot 226, Lake Avenue, Upper Duluth, by free conveyance from the United States through its department of health and human services.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into a lease agreement for Lot 226, Lake Avenue, Upper Duluth, substantially in the form of that on file in the office of the city clerk as Public Document No. 99-1122-17, with the Salvation Army at a cost of \$1 annually.

Resolution 99-0787 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of that on file in the office of the city clerk as Public Document No. 99-1122-18, to City Contract No. 18429 with HRA, increasing the amount of funding under the agreement by an additional \$13,500, payable from the 1999 Federal HOME Program Fund 260, Agency 020, Org. 2681, Object H003.

Resolution 99-0799 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that Minnesota Army National Guard be and hereby is awarded a contract for providing volleyball court rental for the parks and recreation department in accordance with specifications on its low specification bid of \$10,360, terms net 30, FOB destination, payable out of Special League Fund 210, Dept./Agency 030, Organization 2190, Object 5412; to be encumbered out of 2000 budget.

Resolution 99-0786 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

WHEREAS, Bresnan Telecommunications Company, LLC, (grantee) owns, operates, and maintains a cable communications system (system) in the city of Duluth (grantor) pursuant to a cable communications franchise (the franchise) and grantee is the current holder of the franchise; and

WHEREAS, pursuant to the purchase and contribution agreement between BCI (USA), LLC, William J. Bresnan, Blackstone BC Capital Partners, L.P., Blackstone BC Offshore Capital Partners, L.P., Blackstone Family Investment Partnership III, L.P., TCI Bresnan, LLC, TCID of Michigan, Inc., (collectively, the Bresnan Partners) and Charter Communications Holding Company, LLC (Charter HoldCo) (the transferee), dated June 29, 1999, the Bresnan Partners desire to transfer the partnership interests of Bresnan Communications Company Limited Partnership to Charter HoldCo (the transaction), subject to, among other conditions, any required approval of the grantor; and

WHEREAS, grantee and Charter HoldCo have requested consent from the city of Duluth to transfer and assign the assets of the system, including the franchise, to Charter HoldCo in accordance with the requirements of the franchise; and

WHEREAS, the city of Duluth has determined that the approval of the transaction and transfer and assignment of the franchise from grantee to Charter HoldCo will not adversely affect system subscribers.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby consents to and approves the transfer and assignment of the assets of the system to Charter HoldCo, including all rights and obligations under the franchise which accrue from and after the date of the consummation of the transaction (the closing date).

RESOLVED FURTHER, that the transfer and assignment of the franchise to Charter HoldCo and the assumption by Charter HoldCo of the obligations of grantee under the franchise

which accrue from and after the closing date shall be contingent upon and take effect only on the closing date and shall be effective only after Charter HoldCo has accepted the franchise as provided for in the Duluth City Charter.

Resolution 99-0792 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

WHEREAS, it appears that it may be necessary to construct a permanent street in Como Avenue from Willow Street to Butternut Avenue, approximately 1,950 feet in length, including permanent residential design street with concrete curb and gutter, bituminous surface, storm sewer, sanitary sewer, water main and gas main to serve: Lots 1 through 5, Block 1, Lots 1 through 5, Block 2, Lots 1 through 10, Block 5, and sanitary sewer for Lots 6 through 11, Block 3, and Lots 11 through 15, Block 5, Maple Ridge First Addition.

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of this council to cause this improvement to be made, provided that further information 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 99-0797 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

WHEREAS, the city has received notification from the Northland Foundation to receive a grant of \$1,000 to be used for the helping hands of youth program; and

WHEREAS, the city is willing to be a financial agent for the helping hands of youth program because the program will benefit city parks as well as troubled youth;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized to execute the agreement filed as Public Document No. 99-1122-19. The grant amount of \$1,000 from the Northland Foundation shall be deposited into Parks and Recreation General Fund Account 100-2053 and dispersed only in accordance with the grant agreement.

Resolution 99-0802 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that Resolution 98-0654 to LHB Engineers and Architects, Inc., for furnishing professional engineering services in connection with survey and design of the rehabilitation of Bridge #69812 located at 27th Avenue West and Courtland Street, be amended to increase the amount by \$9,770 for a new total of \$19,050, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2131, Object 5303.

Resolution 99-0809 was unanimously adopted.

Approved November 22, 1999

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 2000; said agreement to be in the form of Public Document No. 99-1122-20 on file in the office of the city clerk.

Resolution 99-0795 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

WHEREAS, the Greater Downtown Council will be partnering with KDLH-TV and a number of Superior Street merchants in a Downtown holiday season promotion and they have requested the city to cover certain Downtown parking meters and provide Downtown shoppers with one day of two hour free parking before the holidays; and

WHEREAS, the city agrees that this program would have a positive effect on the Downtown area by encouraging Downtown shopping near the holidays;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby authorizes the covering of parking meters on Superior Street from Fifth Avenue West to Second Avenue East on December 10, 1999.

RESOLVED FURTHER, that during this period two hour limit parking shall be enforced on this covered meter parking area.

Resolution 99-0801 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

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At this time, 8:00 p.m., President Keenan called the public hearing regarding a proposed ordinance amending Section 5 of the City Charter to increase the pay of city councilors from \$625 per month to \$833 per month to order.

President Keenan stated that the councilors' pay has not been raised for ten years and that councilors put in over 40 hours a week. He also reviewed that the Charter commission passed this issue unanimously.

K.L. Lewis voiced her support of the council pay increase because of the amount of work the councilors need to do to perform their job.

Tom Allnew requested the councilors table the issue and serve without pay.

At this time, 8:05 p.m. President Keenan closed the public hearing.

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President Keenan moved to consider Ordinance 99-028 at this time, which motion was seconded and unanimously carried.

BY PRESIDENT KEENAN

99-028 (9429) - AN ORDINANCE AMENDING SECTION 5 OF THE CITY CHARTER TO INCREASE THE PAY OF CITY COUNCILORS FROM \$625 PER MONTH TO \$833 PER MONTH.

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

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

At this time, 8:07 p.m., President Keenan called the public hearing regarding the proposed amendment to Chapter 50 of the Duluth City Code 1959, as amended, zoning district map No. 22 as contained in the appendix to Chapter 50, to provide for the reclassification of property located at 1415 Sundby Road (Kaake) to order.

There being no speakers, President Keenan closed the public hearing.

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President Keenan moved to consider Ordinance 99-031 at this time, which motion was seconded and unanimously carried.

BY COUNCILOR PRETTNER SOLON

99-031 (9426) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED AT 1415 SUNDBY ROAD (KAAKE).

Councilor Prettner Solon stated that this property is currently a commercial use in a residential zone doing so under a special use permit and bounded on three sides by commercial property. She went on to say that the C-5 designation gives the planning commission considerable control of the development in that area, and that the planning commission passed this rezoning unanimously.

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

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The following resolutions were also considered:

Resolution 99-0817, by Councilor Hogg, approving DEDA Resolution No. 99D-52, was introduced for discussion.

Councilor Hogg stated that the Duluth economic development authority (DEDA) has made some modifications to the development agreement with the Tech Center which will result in a savings to taxpayers. He continued by saying that although this resolution does not need city council approval, he thought it would be good for public accountability to bring it before the public tonight.

Todd Torvinen, director of the finance department, stated that this resolution is a modification to the original development agreement with A&L Development. He reviewed that DEDA entered into a commitment to fund an obligation whereby if the developer had leased up to 60 percent of the leasable square footage of the Tech Village in Phase 1 and Phase 2, DEDA would step forward to lease space up to a three year period at \$12/square foot plus including common area maintenance (CAM) costs of \$3.50/square foot for a total obligation of \$2,185,000 to the developer. He continued by saying that the disadvantage is that it was for a three year commitment and DEDA would not be able to commit to a tenant after the three years, and it did not allow for any funding for build out costs for the tenant which is valued at \$25/square foot. Mr. Torvinen stated that this new agreement will allow DEDA to recover some of their investment by paying the developer \$1.7 million for 10,000 square feet for 15 years instead of three years, \$250,000 set aside to use for build out costs for prospective clients which allows for more flexibility in the sublease options for use of this area, it allows DEDA to have a revenue stream for the next 15 years, it offers DEDA incubator space for Soft Center businesses, DEDA has the potential to earn \$153,000, and also DEDA can transfer the CAM cost to any new tenant and avoid that obligation.

Councilor Hales questioned if this agreement would become effective only when the developer has 60 percent of the building leased.

Mr. Torvinen replied that the developer has stated that they have fulfilled their 60 percent commitment in the first phase and the city will be verifying the lease agreements shortly.

Councilor Fena questioned if there was an earlier approval for expenditure by DEDA on this agreement and also questioned who would be responsible for the CAM expenses.

Mr. Torvinen replied that this resolution puts a dollar amount into the development agreement that was approved in concept earlier, and that the budgeted amount was for \$1.8 million, but the up-front money to the developer will be \$1.7 million. He also stated that the tenants will be responsible for the CAM costs unless DEDA ends up using the space and takes on the cost for that space.

Councilor Hogg reviewed that the original agreement only allowed a three year commitment to tenants which provided very little opportunity for DEDA to recover any money, and any tenant moving into the space would be at risk at what kind of negotiating situation they would be in with the developer at the end of their three year lease period with DEDA.

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

John Olson, representing the Minnesota Senior Federation - Northeast Coalition, expressed concern that the figures being given the councilors about the new lease are not accurate and urged the councilors to have a public hearing to inform the public on how much money has been committed to the project.

Councilor Fena stated that the coalition's concern is the CAM charges and who is actually responsible for that cost.

Mr. Torvinen replied that the tenant is responsible for the CAM costs, and DEDA, being the tenant, will immediately lease the space and pass the CAM charges onto the new tenants. He also stated that DEDA would be coming back to the council to approve the CAM expenditures each year if there are no tenants for that space.

Councilor Hales reviewed that comments on this agreement should have been made at the DEDA meeting because the council vote is not necessary for the agreement to be in effect.

Councilor Prettner Solon emphasized that this modified agreement is a better deal for the city and for DEDA, and that DEDA will have a chance to recapture their costs under this agreement.

Resolution 99-0817 was adopted as follows:

BY COUNCILOR HOGG:

WHEREAS, on November 17, 1998, the board of commissioners of the Duluth economic development authority (DEDA) approved DEDA Resolution No. 98D-65 authorizing the execution of a development agreement (the development agreement) with A & L Development for the development of the Tech Village project (the project); and

WHEREAS, the development agreement required DEDA to make certain payments to developer based on the status of lease-up of the project for up to three years; and

WHEREAS, on November 16, 1999, the DEDA board of commissioners approved Resolution No. 99D-52 approving a modification of the development agreement and a lease which substituted the obligation to lease approximately 10,000 square feet of space in the project for 15 years for the obligation referred to above; and

WHEREAS, the cost of the obligations approved pursuant to DEDA Resolution No. 99D-52 is approximately equal to the above-referenced obligations under the development agreement; and

WHEREAS, the modification of the development agreement and a lease allow DEDA an enhanced opportunity to recover the costs it is obligated to pay under the development agreement; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

WHEREAS, a request has been made to have the city council review and approve DEDA Resolution No. 99D-52.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council does hereby approve DEDA Resolution No. 99D-52.

Resolution 99-0817 was adopted upon the following vote:

Yeas: Councilors Edwards, Fena, Hales, Hogg, Prettner Solon, Rapaich and President Keenan -- 7

Nays: Councilor Gilbert -- 1

Approved November 22, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0805, by Councilor Rapaich, approving the appointment of Michael Conlan as director of planning and development, was introduced for discussion.

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

Peggy Marin reviewed that at one time there was a selection process for a city planner with three finalists and was disappointed that no process was followed to hire anyone, and now no process was followed and someone is being appointed.

Mayor Doty reviewed that the previous position was for city planner, and that this appointment is for the department head of planning and development currently held by Cynthia Albright.

Resolution 99-0805 was adopted as follows:

BY COUNCILOR RAPAICH:

WHEREAS, subject to the approval of the mayor and the city council, the administrative assistant has appointed Michael Conlan to the position of director of planning and development effective December 1, 1999; and

WHEREAS, such appointment has been approved by the mayor;

NOW, THEREFORE, BE IT RESOLVED, that the appointment of Michael Conlan to the position of director of planning and development is hereby approved.

Resolution 99-0805 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

WHEREAS, subject to the approval of the mayor and the city council, the administrative assistant has appointed Daniel Haus to the position of fire chief effective immediately upon approval by the mayor and city council; and

WHEREAS, such appointment has been approved by the mayor;

NOW, THEREFORE, BE IT RESOLVED, that the appointment of Daniel Haus to the position of fire chief is hereby approved.

Resolution 99-0806 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0807, by Councilor Rapaich, approving the appointment of Bryan Brown as city attorney, was introduced for discussion.

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

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0722, by Councilor Prettner Solon, authorizing the building official to abate certain nuisances by removal of structurally unsound buildings in the city of Duluth, was introduced for discussion.

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

K.L. Lewis questioned if the list of buildings to be condemned are in the paper so that the public is aware of what properties are condemned.

Councilor Prettner Solon replied that there is a long process that is followed before a property is condemned which includes notifying the owner.

Resolution 99-0722 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the building official of the city of Duluth duly issued a condemnation order against the following parcel of property, grounds of condemnation being the buildings are structurally unsound, open to trespass, and a menace to the neighborhood; and

WHEREAS, notice of condemnation was served as follows:

PARCEL 1: 1534-36 West Superior Street, a/k/a Duluth Proper Second Division, Block 32, Lot 258, by certified mail on Eve Davis Trust, 1950 Morgan Avenue, St. Paul, Minnesota 55116, signed by Stanley Davis on August 12, 1999; and on Arthur Davis, 4816 Oregon Avenue North, New Hope, Minnesota 55428 on August 13, 1999.

NOW, THEREFORE, BE IT RESOLVED, that the building official is hereby authorized and directed, forthwith, to take whatever means may be necessary to abate or cause the abatement of the nuisance now existing on the above-named property, and to make prompt report in writing to the city council with respect to the abatement and removal of such nuisance, together with cost if any thereof, to the city of Duluth.

Resolution 99-0722 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that, pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and Northspan Group, Inc., for their Arrowhead business connection regional marketing business recruitment and retention program in the amount of \$25,000, as approved by the DEDA board at its meeting of November 16, 1999, pursuant to DEDA Resolution No. 99-49R, a copy of which is on file in the office of the city clerk as Public Document No. 99-1122-21, is hereby approved.

Resolution 99-0815 was unanimously adopted.

Approved November 22, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0810, by Councilor Gilbert, establishing 30 minute time limit parking zones on Maryland Street from Kenwood Avenue to Dodge Avenue and Kenwood Avenue from Maryland Street to Victoria Street, was introduced for discussion.

Councilor Gilbert stated that this used to be a neighborhood school where the kids walked to school, but now everyone drives to school as the kids come from all over the city. He continued by saying that the neighborhood and the school are at an impasse and that the process needs to get going between the groups. Councilor Gilbert stated that the police department's position is that any parking on Kenwood Avenue is unsafe and would rather see parking on Maryland Street,

and that a process should be followed by involving the parking commission and city staff to study the problem for a permanent solution.

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

John Dargon, Toni Morse, Paul Glosseus, Claire Smith, Jim Huber, and Cindy Hagley urged support of the resolution for the following reasons: access to the school is needed to drop off and pick up students without having to park illegally on Kenwood Avenue; this parking change is not a permanent solution and a better solution is needed, but neither nor the school or neighbors are willing to talk; the buses and the parents are in a no parking area when dropping off kids; only the front door of the school is open for after school activities and the parking is in the rear of the building when it is time to pick up the children; this is the first step toward working at long term parking; and the back parking lot is dangerous with a small street going into it.

Barbara Raimey reviewed that there was no process followed when the no parking signs were put up last spring and questioned why a process would need to be followed for taking down these signs. She also stated that no other public school in the city has such limited parking and continued by saying that the councilors have the power to ensure the safety of hundreds of children by allowing reasonable and safe access into the school.

Councilor Hogg questioned if it was necessary to have the drop off zone be 30 minutes or would 20 minutes be long enough. He continued by saying that a 20 minute zone would allow more turnover and more room to accommodate without congestion.

Councilor Fena stated that the councilors' job is to find a solution to the problem and the parents need a place to drop off and pick up their kids at school and there is no other place to allow access than Kenwood Avenue and Maryland Street.

Councilor Prettner Solon stated that staff should be able to arbitrate some of these decisions and turn the long term problem over to them. She suggested that the city remove the no parking zone signs until new signs are put up with a final solution and have staff quickly mediate this decision.

Councilor Edwards supported this resolution to see how this change works while staff works on a long term solution.

President Keenan stated that a caller from the neighborhood said there was no problem on Maryland Street. but on Kenwood Avenue there is no where for the cars to turn around except at the corner or in one of the residents' driveways. He continued by saying that schools need off street parking and the council could approve parking on Maryland Street on an immediate basis, but have the administration study Kenwood Avenue on a long term basis.

President Keenan moved to amend the resolution by deleting the following language:

"(a) The east side of Kenwood Avenue north of Maryland Street," which motion was seconded for discussion.

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

John Dargon, Barbara Raimey, and Cindy Hagley stated that there are a huge number of cars that are dropping kids off at Edison School every day and to take away one street for parking, even on a temporary basis, is very significant. They reviewed that Kenwood Avenue has the handicapped parking spaces, and wanted to know where that parking would go if the parking is taken off of Kenwood Avenue since the Maryland Street entrance has stairs which limit the people who can come into school from that direction.

President Keenan's amendment failed upon the following vote:

Yeas: President Keenan -- 1

Nays: Councilors Edwards, Fena, Gilbert, Hales, Hogg, Prettner Solon and Rapaich -- 7

Councilor Hales reviewed that the neighborhood had been before the council last year when the new street in front of the school was being designed, and now the school is here asking for changes in the parking. She continued by saying that the council is aware that this is a safety issue and that a long term solution is needed, but the solution needs to start with the parking commission, the public safety committee and the engineering office meeting with the groups and coming up with a solution.

Councilor Hogg called the question on the resolution, which motion was seconded and unanimously carried.

Resolution 99-0810 was adopted as follows:

BY COUNCILOR GILBERT:

RESOLVED, that pursuant to Section 33-84 of the City Code the city council hereby establishes 30 minute time limit parking zones on the following streets:

- (a) The east side of Kenwood Avenue north of Maryland Street;
- (b) The south side of Maryland Street from Kenwood Avenue to Dodge Avenue;
- (c) The north side of Maryland Street from Kenwood Avenue to Dodge Avenue. This zone shall be in effect only from 5 p.m. to midnight.

Resolution 99-0810 was adopted upon the following vote:

Yeas: Councilors Edwards, Fena, Gilbert, Hogg, Prettnner Solon and President Keenan -- 6

Nays: Councilors Hales and Rapaich -- 2

Approved November 22, 1999

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances are to be read for the second time:

BY COUNCILOR PRETTNER SOLON

99-032 (9427) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY ON MICHIGAN STREET WEST OF 21ST AVENUE WEST TO ANDERSON FURNITURE COMPANY, INC., FOR \$70,000.

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

- - -

BY COUNCILOR PRETTNER SOLON

99-033 (9428) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF PART OF LOTS 4, 6, 8, 10 AND 12, EAST FIRST STREET, DULUTH PROPER FIRST DIVISION, TO TECH VILLAGE, LLC, SUBJECT TO AN EASEMENT FOR LIGHT, VIEW AND BUFFER SPACE.

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

- - -

BY COUNCILOR HALES

99-030 (9430) - AN ORDINANCE AMENDING SECTION 6-72 OF THE DULUTH CITY CODE RELATING TO THE DEFINITION OF NONDOMESTICATED ANIMAL.

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

- - -

The meeting was adjourned at 9:55 p.m.

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

- - -

ORDINANCE NO. 9429

BY PRESIDENT KEENAN:

AN ORDINANCE AMENDING SECTION 5 OF THE CITY CHARTER TO INCREASE THE PAY OF CITY COUNCILORS FROM \$625 PER MONTH TO \$833 PER MONTH.

The city of Duluth does ordain:

Section 1. That Section 5 of the 1912 Charter of the City of Duluth, as amended, is hereby amended to read as follows:

Sec. 5. Salaries.

The salary of the mayor shall be set by the council.

The council shall provide in the annual operating budget a contingent fund of five thousand dollars (\$5,000) unless and until increased by the council. This fund may be expended by the mayor for such public purposes as the mayor may deem proper.

The appointed administrative assistant shall be paid a salary set by the mayor with the approval of the council.

The council shall not decrease the salary of any mayor or incumbent administrative assistant, except prior to the general municipal election, and to take effect at the beginning of the next term of office for mayor.

The councilors shall be paid a fee of eight hundred thirty three dollars (\$833) per month for service as a member of the council. Service as a member of the council, to be eligible for this fee, shall require that the councilor shall be present and in attendance for at least one full formal meeting of the council during the month for which this fee is paid.

Section 2. That this ordinance shall take effect and be in force 90 days from and after its passage and publication. (Effective date: March 2, 2000)

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

Yeas: Councilors Edwards, Fena, Gilbert, Hales, Hogg, Prettner Solon, Rapaich and President Keenan -- 8

Nays: None -- 0

Passed November 22, 1999
Approved November 22, 1999
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9426

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED AT 1415 SUNDBY ROAD (KAAKE).

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Section 1. That Plate No. 22 of the zoning district map as contained in the appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

[MAP 22]
[see page 560]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 9, 2000)

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

Yeas: Councilors Edwards, Fena, Gilbert, Hales, Hogg, Prettner Solon, Rapaich and President Keenan -- 8

Nays: None -- 0

Passed November 22, 1999
Approved November 22, 1999
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9427

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY
ON MICHIGAN STREET WEST OF 21ST AVENUE WEST TO
ANDERSON FURNITURE COMPANY, INC., FOR \$70,000.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that which is on file in the office of the city clerk as Public Document No. 99-1122-22, for the sale of the following described property in St. Louis County, Minnesota, by warranty deed, to Anderson Furniture Company, Inc., for the sum of \$70,000, said sum to be deposited in the Permanent Improvement Fund 411, and execute all documents necessary with regard to said conveyance:

A parcel of land located in SW 1/4 of Section 33, T50N R14W, Fourth Principal Meridian, city of Duluth, St. Louis County, Minnesota. Said parcel also being a portion of Lots 340, 342, 344, 346, 348 and 350, Block 14, Duluth Proper, Second Division, as filed in the office of the St. Louis County recorder and shown on Exhibit A, and being more particularly described as follows:

Beginning at the north corner of said Lot 350, said corner also being the intersection of the southeasterly right-of-way line of Michigan Street with the southerly right-of-way line of the proposed Lower Michigan Street, as described in construction plans for State Aid Project No. 118-194-01 MTB;

Thence along the northeasterly line of said Lot 350 and said southerly right-of-way line of Lower Michigan Street S48° 20' 29"E, 3.36 feet, to the beginning of a nontangent curve, concave to the southeast, having a radius of 262.08 feet, a central angle of 37° 41' 00", and a chord bearing of N62° 49' 01"E;

Thence northeasterly along said curve and said southerly right-of-way line, 172.37 feet;

Thence continuing along said southerly right-of-way line, tangent to said curve, N81° 39' 31"E, 117.43 feet to an intersection with the southeasterly line of said Lot 340;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Thence departing said southerly right-of-way line, S41° 39' 31"W, 233.12 feet along the southeasterly lines of said Lots 340, 342, 344, 346 and 348, to the beginning of a nontangent curve, concave to the north, having a radius of 227 feet, a central angle of 9° 54' 22", and a chord bearing of S82° 22' 22"W, said nontangent curve being the northeasterly line of a Minnesota department of transportation right-of-way, as described in Certificate of Title Document No. 229358, on file in the office of the St. Louis County registrar of titles;

Thence westerly along said nontangent curve, 39.25 feet to an intersection with a line being parallel with, and 15 feet southwesterly of, the northeasterly line of said Lot 350;

Thence along said parallel line, nontangent to said curve, N48° 20' 29"W, 114.37 feet to the northwest line of said Lot 350;

Thence along said northwest line of Lot 350, N41° 39' 31"E, 15 feet to the point of beginning.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: January 2, 2000)

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

Yeas: Councilors Edwards, Fena, Gilbert, Hales, Hogg, Prettner Solon, Rapaich and President Keenan -- 8

Nays: None -- 0

Passed November 22, 1999

Approved November 22, 1999

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9428

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF PART OF LOTS 4, 6, 8, 10 AND 12, EAST FIRST STREET, DULUTH PROPER FIRST DIVISION, TO TECH VILLAGE, LLC, SUBJECT TO AN EASEMENT FOR LIGHT, VIEW AND BUFFER SPACE.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby grants and conveys by quit claim deed to Tech Village LLC, its right, title and interest in and to real estate located in St. Louis County, Minnesota, a Minnesota limited liability company:

See Exhibit A, which is filed as Public Document No. 99-1122-23, subject to an easement for light, view and buffer space, as described in Exhibit A.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: January 2, 2000)

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

Yeas: Councilors Edwards, Fena, Gilbert, Hales, Hogg, Prettner Solon, Rapaich and President Keenan -- 8

Nays: None -- 0

Passed November 22, 1999

Approved November 22, 1999

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9430

BY COUNCILOR HALES:

AN ORDINANCE AMENDING SECTION 6-72 OF THE DULUTH CITY CODE RELATING TO THE DEFINITION OF NONDOMESTICATED ANIMAL.

The city of Duluth does ordain:

Section 1. That Section 6-72 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 6-72. Definitions.

For the purposes of this Chapter, the following words and phrases shall mean:

(a) Farm animal. A domesticated species of fowl, or hoofed mammal commonly kept for agricultural purpose such as a horse, cow, sheep, pig or llama;

(b) Nondomesticated animal. Every mammal, fowl and reptile species, including those born or raised in captivity, except the following:

(1) Domestic dogs (excluding hybrids with wolves, coyotes, or jackals) properly vaccinated against rabies pursuant to law;

(2) Domestic cats (excluding hybrids with ocelots or margays) properly vaccinated against rabies pursuant to law;

(3) Farm animals, including bees, Vietnamese pot-bellied pigs and pigeons, provided that no more than three Vietnamese pot-bellied pigs and no more than ten pigeons can be kept on any one lot or premises;

(4) Rodents, including hamsters, mice, gerbils, white rats or guinea pigs capable of being maintained continuously in cages;

(5) Rabbits;

(6) Species of common cage birds;

(7) Nonpoisonous snakes of a species that commonly does not grow in excess of eight feet in length;

(8) Chinchillas, hedgehogs, nonpoisonous lizards and other similar small animals capable of being maintained continuously in cages;

(9) Fish, unless prohibited by state or federal law;

(10) Neutered male or spayed female domestic ferrets;

(c) Veterinary hospital. Any establishment maintained or operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals;

(d) Zoological park. Any facility operated by a person, partnership, corporation, or governmental agency, other than a pet shop or kennel, displaying or exhibiting one or more species of nondomesticated animals.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 2, 2000)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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

Yeas: Councilors Edwards, Fena, Gilbert, Hales, Hogg, Prettner Solon, Rapaich and President Keenan -- 8

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed November 22, 1999

Approved November 22, 1999

GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 6, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Fena, Gilbert, Hales, Hogg, Prettner Solon, Rapaich and President Keenan -- 8

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-1206-01 Donald and Joan Tabelle submitting petition to vacate 84th Avenue West between Blocks 40 and 41, Nortons Fairmount Park Division. -- Assessor

99-1206-02 Donald and Roxanne Wyatt, by William Burns, attorney, submitting petition to vacate Lots 2, 3, 31 and 32, Block 3, Oatka Beach Addition to Duluth. -- Assessor

99-1206-03 Minnesota state auditor submitting Duluth economic development authority management and compliance report for the year ending December 31, 1998. -- Received

99-1206-21 Faith Haven, Inc., submitting communication regarding stormwater utility fee (99-0710R). -- Received

99-1206-22 The following submitting communications regarding Bayfront Festival Park (99-0803R): (a) James Daggett; (b) Duluth Urban Wilderness; (c) Faris Keeling; (d) Sally Ann Keyes; (e) Lois M. Palucci; (f) Candice Richards; (g) Sivertson Gallery; (h) Bill Swanstrom; (i) Tim Verner. -- Received

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REPORTS OF OFFICERS

99-1206-24 Mayor submitting memo establishing a citizen project management committee for the Bayfront Festival Park project. -- Received

99-1206-04 Assessor submitting:

(a) Affidavit of mailing of notice of public hearing by the special assessment board on December 8, 1999, at 4:30 p.m., regarding the proposed improvement of a sanitary sewer - two inch grinder pump system in Greysolon Road from 35th Avenue East to 650 feet westerly. -- Clerk

(b) Letter of sufficiency to vacate 84th Avenue West, between Blocks 40 and 41, Nortons Fairmount Park Division. -- Received

99-1206-05 Clerk submitting application to Minnesota gambling control board for exemption from lawful gambling license (raffles) from St. Luke's Foundation on July 10, 2000. -- Received

99-1206-06 Community development and housing division submitting HRA housing rehabilitation report for October, 1999. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-1206-07 Alcoholic beverage board minutes of: (a) October 13; (b) October 29, 1999, meetings. -- Received

99-1206-08 Duluth airport authority: (a) Unaudited balance sheet of October 31, 1999; (b) Minutes of October 26, 1999, meeting. -- Received

99-1206-09 Lawful gambling commission minutes of: (a) August 10; (b) September 1; (c) September 14; (d) October 12, 1999, meetings. -- Received

99-1206-10 Planning commission minutes of October 27, 1999, meeting. -- Received

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REPORTS OF COUNCILORS

Councilor Hogg reported the public hearing on the 2000 budget and tax levy was held earlier this evening (Public Document No. 99-1206-23).

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Robert Sharkey, administrator of Faith Haven Apartments, expressed his concern over the stormwater utility fee, noting that he feels that the basis for the current method of fee calculation is unfair and not equitable. He noted that Faith Haven is paying approximately the same amount as the gigantic Super One Store and that Denfeld Super Valu, which has a surface area three times the size of Faith Haven, is paying less than 1/3 of what Faith Haven is paying. In conclusion, Mr. Sharkey submitted his report (Public Document No. 99-1206-21) and requested the council consider that senior apartments be treated as nonresidential in computing the rates and that the runoff from areas outside of Duluth affects the costs of operating our system.

- - -

Kay L. Lewis noted that the bridge at Fourth Street and Chester Creek has been completed and that it looks wonderful.

- - -

Tom Allnew voiced support for eliminating the income tax and substituting it with a national sales tax, noting that it is the least burdensome on the poor, with the exception of the Spirit Mountain sales tax, which Mr. Allnew opposed.

- - -

Peggy Marrin expressed her concern over what was recently presented at a legislative meeting as the primary goals of the city at the legislature for next year, noting Councilor Hogg's point of being part of the prioritizing process.

- - -

RESOLUTION TABLED

Councilor Rapaich moved to remove Resolution 99-0807, approving the appointment of Bryan Brown as city attorney, 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.

Tom Allnew voiced his lack of support for this appointment based on what he felt was Mr. Brown's lack of confidence to express his own opinion on issues that came up under his supervisor, Mr. Dinan.

Mayor Doty noted his support for this appointment and stated that Mr. Dinan has worked for many mayors and has always been an outstanding city attorney.

Resolution 99-0807 was adopted as follows:

BY COUNCILOR RAPAICH:

WHEREAS, subject to the approval of the the city council, the mayor has appointed Bryan Brown to the position of city attorney effective January 1, 2000;

NOW, THEREFORE, BE IT RESOLVED, that the appointment of Bryan Brown to the position of city attorney is hereby approved.

Resolution 99-0807 was unanimously adopted.

Approved December 6, 1999

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR EDWARDS:

RESOLVED, that Environmental Equipment and Services, Inc., be and hereby is awarded a contract for furnishing and delivering a municipal tractor with various options required to perform functions for the street maintenance division in accordance with specifications on its low specification bid of \$59,652.78, terms 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2009, Object V908.

Resolution 99-0813 was unanimously adopted.

Approved December 6, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Century Fence Company, Inc., be and hereby is awarded a contract for furnishing and installing the Merritt recreation center backstop fencing for the city architect division in accordance with specifications on its low specification bid of \$12,101, terms net 30, FOB destination, payable out of Capital Improvement Fund 450, Dept./Agency 015, Organization 1999, Object C903.

Resolution 99-0822 was unanimously adopted.

Approved December 6, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that J Craft, Inc., be and hereby is awarded a contract for furnishing and delivering four complete hydraulic snow wings for International Harvester plow trucks for the administrative services department in accordance with specifications on its low specification bid of \$33,668, terms net 30, FOB shipping point, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2009, Object V911.

Resolution 99-0830 was unanimously adopted.

Approved December 6, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale nonintoxicating malt liquor license for the period ending April 30, 2000, and approves the issuance of an on sale wine license, for the period ending August 31, 2000, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval from the liquor control commissioner:

Loy Krathong, Inc. (Thai Krathong), 114 West First Street, with Sumlee Beede as 100 percent stockholder, transferred from Tu V Tran (China Buffet), same address.

Resolution 99-0836 was unanimously adopted.

Approved December 6, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues an on sale dance license to the following for the period ending August 31, 2000, subject to departmental approvals:

Diamond's M&W, Inc. (Red Lion), 220 East Superior Street.

Resolution 99-0837 was unanimously adopted.

Approved December 6, 1999

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 fifth 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 \$50,150, payable from Tax Increment Financing District No. 6.

Resolution 99-0812 was unanimously adopted.

Approved December 6, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to City Contract No. 18331 with Arrowhead economic opportunity agency (AEOA) for the regular weatherization project substantially in the form of that on file in the office of the city clerk as Public Document No. 99-1206-11, extending the term of the agreement for a period of three months with no change in compensation thereunder.

Resolution 99-0819 was unanimously adopted.

Approved December 6, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to City Contract No. 18222 relating to the East Hillside area restoration program II (HARP II) with Housing and Redevelopment Authority of Duluth, Minnesota (HRA), substantially in the form of that on file in the office of the city clerk as Public Document No. 99-1206-12, extending the term of the agreement for a period of six months with no increase in compensation thereunder.

Resolution 99-0820 was unanimously adopted.

Approved December 6, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to with the Housing and Redevelopment Authority of Duluth, Minnesota (HRA), for the HOME program tenant-based rental assistance administration agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 99-1206-13, extending the term of the agreement for a period of six months with no increase in compensation thereunder.

Resolution 99-0828 was unanimously adopted.

Approved December 6, 1999

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a utility easement legally described as: the 20 foot wide utility easement adjacent to the easterly lot lines of Lots 3 and 5, Block 4, Spirit Cove Division, and

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

WHEREAS, the city planning commission approved unanimously, the vacation petition at its November 17, 1999, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the utility easement described above, and as more particularly described on Public Document No. 99-1206-14.

BE IT RESOLVED, that the city council of the city of Duluth hereby vacates the 20 foot wide utility easement adjacent to the easterly lot lines of Lots 3 and 5, Block 4, Spirit Cove Division, except the southerly 20 feet thereof which is retained as a utility easement.

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

Resolution 99-0833 was unanimously adopted.

Approved December 6, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, St. Louis Riverview Homes, Inc., has submitted to the city council a request for a special use permit, in conformance with the requirements of Section 245A.11 of the Minnesota Statutes, to establish and operate a state licensed program for women with mental illness on property described as Lot 3, Block 59, Endion Division and located at 1610 East First Street; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

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

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to St. Louis Riverview Homes, Inc., to allow for the operation of a state licensed program for women with mental illness, serving not more than ten residents, on the above described property located at 1610 East First Street.

Resolution 99-0834 was unanimously adopted.

Approved December 6, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

WHEREAS, Dale Breiland, doing business as Garden House Estates, has submitted to the city council a request for a special use permit for a residential care facility on property described as Lots 1, 2, 3, 4 and 5, Block 9, Riverside Division, and located at 1 and 7 Riverside Drive; 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 Dale Breiland to allow for the operation of a residential care facility at 1 and 7 Riverside Drive on the following conditions:

(a) That Uniform Building Code issues be resolved and appropriate permits issued by the city building official;

(b) That site drainage be altered to direct runoff of buildings and parking areas away from England Street properties and toward Riverside Drive and that a snow removal and storage plan be filed with the city planning division;

(c) That the facilities authorized by this permit shall conform substantially with the site plan identified as Public Document No. 99-1206-15.

Resolution 99-0835 was unanimously adopted.

Approved December 6, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

WHEREAS, by the Resolution of Intent numbered 99-0797, the council did request the administration to prepare plans and specifications for the construction of a permanent street in Como Avenue from Willow Street to Butternut Avenue, approximately 1950 feet in length, including permanent residential design street with concrete curb and gutter, bituminous surface, storm sewer, sanitary sewer, water main and gas main (City Job No. 9164RS99); 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 owners have waived their right to a hearing before 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 \$455,000, payable from the Special Assessment Fund 810, Agency 038, Organization 5326, 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; 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 99-0816 was unanimously adopted.

Approved December 6, 1999

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that pursuant to Section 35-15 of the Duluth City Code, the Duluth City Council hereby establishes rates for the use of municipal golf courses as set forth in Exhibit A, on file in the office of the city clerk as Public Document No. 99-1206-17, 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 99-0818 was unanimously adopted.

Approved December 6, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

WHEREAS, on November 2, 1999, there was held in the City of Duluth, pursuant to provisions of Laws of Minnesota, 1973, Chapter 281, a general municipal election for the purpose of electing certain officers; and

WHEREAS, a recount of the returns for the First Councilmanic District was requested by candidate Mary Finnegan and such recount was held on November 23, 1999, pursuant to provisions of Minnesota Statutes, Section 204C.36; and

WHEREAS, the city council, acting as a canvassing board for the recount, has certified the results of the recount (Public Document No. 99-1206-18) and determined the results to be as follows:

For the office of councilor for the First Council District, Mary Finnegan received 3,090 votes; Rob Stenberg received 3,122 votes;

NOW THEREFORE, BE IT RESOLVED, that Rob Stenberg having received the majority of all votes cast at said election for the office of councilor, first district, is hereby declared duly elected for a term of four years.

Resolution 99-0821 was unanimously adopted.

Approved December 6, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the proper city officers are hereby authorized to execute an agreement with the Salvation Army, under which the Salvation Army would administer an emergency energy assistance program using \$16,086 in funds that the city will receive from the Ordean Foundation for such purpose, which agreement is on file in the office of the city clerk as Public Document No. 99-1206-19; payment by the city will be made from the general fund, other functions, Agency 015, Miscellaneous 2020.

Resolution 99-0823 was unanimously adopted.

Approved December 6, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Resolution 99-0349 to United Piping, Inc., for furnishing construction of one inch, two inch and three inch plastic gas mains, 1/2 inch and one inch plastic gas services and related work in various locations in the city of Duluth, be amended to increase the amount by

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

\$51,950 for a new total of \$180,000, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 99-0829 was unanimously adopted.
 Approved December 6, 1999
 GARY L. DOTY, Mayor

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The following resolutions were also considered:
 BY COUNCILOR HOGG:

RESOLVED, that the 2000 tourism taxes of hotel-motel and food and beverage, as estimated, be distributed in the following manner:

	<u>3%</u> <u>hotel-motel</u>	<u>1%</u> <u>hotel-motel</u>	<u>1%</u> <u>food & bev.</u>	<u>Add'l 2%</u> <u>hotel-motel</u>	<u>Total</u>
Duluth public arts commission			20,000	10,000	30,000
Sister cities			22,000	13,600	35,600
DECC	679,200		20,000	19,800	719,000
Convention and Visitors Bureau	365,800	121,400	411,900	125,900	1,025,000
Heritage and Arts Center		89,900	49,600	8,000	147,500
Spirit Mountain			39,800	10,000	49,800
Donations			30,000	20,000	50,000
Transfer to general fund	55,000	153,700	337,000	129,500	675,200
Transfer to debt service			349,700	336,800	686,500
DECC debt service			<u>640,000</u>	<u>168,400</u>	<u>808,400</u>
	<u>1,100,000</u>	<u>365,000</u>	<u>1,920,000</u>	<u>842,000</u>	<u>4,227,000</u>

Resolution 99-0824 was unanimously adopted.
 Approved December 6, 1999
 GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the operation budget for the fiscal year January 1, 2000, to December 31, 2000, in the amount of \$8,753,000 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 99-0825 was unanimously adopted.
 Approved December 6, 1999
 GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the budget for the fiscal year January 1, 2000, to December 31, 2000, in the amount of \$2,848,646 for the Duluth airport authority is hereby approved.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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 99-0826 was unanimously adopted.

Approved December 6, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the operation budget for the fiscal year January 1, 2000, to December 31, 2000, for Duluth Steam District No. 2 in the amount of \$9,588,560 is hereby approved.

Resolution 99-0827 was unanimously adopted.

Approved December 6, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the city is hereby authorized to contribute \$20,000 toward the cost of a study to assess the feasibility of restoring and extending Amtrak rail passenger service to connect the Twin Cities, Duluth and the Iron Range, payment of such money to be made from the tourism tax fund.

Resolution 99-0843 was unanimously adopted.

Approved December 6, 1999

GARY L. DOTY, Mayor

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Resolution 99-0803, by Councilor Prettner Solon, authorizing the proper city officials to enter into an agreement with BRW, Inc., to provide professional architectural services for Bayfront Festival Park, estimated at \$95,750, was introduced for discussion.

Mayor Doty noted that he has appointed a project management committee (Public Document No. 99-1206-24) to work with the architect to oversee festival park area of the Bayfront Park. He stated that he chose a broad basis of representation.

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

Joel Sipress noted that for the record the Bayfront task force as a group did not have input into the selection of the consultant, not suggesting necessarily that they should have. He noted that the co-chairs were asked to be a part of the screening committee. In conclusion, he supported the creation of the project management committee. To council inquiries, Mr. Sipress stated that the only vote the task force took was not to get involved, at this point, in the process of the selection of the consultant, with their recommendations; that the task force has felt that the six acres of city land is not sufficient and that the plan should not be limited to that and that the charge of the task force did not specify that they would be involved with the selection of the consultant.

Iver Bogen, representing the Duluth Urban Wilderness Group, voiced objection to this resolution. He felt that the Bayfront task force should have been involved with the selection process. Mr. Bogen stated that firms that have expertise with festival parks should were not allowed to participate in the process.

Kent Worley, representing Bayfront Visions, stated that he felt the selection process was flawed, noting the number of firms that specialize in festival parks. He also felt there was insufficient time between the request for qualifications (RFQ) and request for proposal (RFP) time frames and insufficient information in those documents. To council questions, Mr. Worley felt that it was best to decide the needs for the public festival park then see what land configuration would

accomplish this and that the area surrounding the public area should be decided at the same time for the best utilization, grading and determining the necessary utilities.

Kay L. Lewis felt that the whole area should be developed by the authority that does the festival park and that it needs to be noted that the area is a flood plain that should be kept green.

Michael Conlan, director of business development and planning, noted that this contract only affects the festival park area and that this is being done first because this is the area that everyone agrees that needs to be done and preserved. He stated that the other areas, with different developments, will take a much longer time to put together. Mr. Conlan, added that with the festival park being the most important aspect, the city does not want to constrain it with the other developments. In conclusion, he stated that this firm is the largest design firm in the world, noting that is important and that it also requires a local design team that knows the community and can meet with the city at any time.

Robert Carlson voiced his support for the use of Kent Worley, a local architect, that has excelled with the needs of the community, noting in particular the Lakewalk/freeway design, and that he should head the team that will make this a world class festival park.

Clayton Oslund noted his support for the festival park and the need to decide the surrounding area's use at the same time. He felt that a world class botanical garden would bring as many people to the area as a festival park.

Peggy Marrin, speaking on behalf of the League of Woman Voters, felt that the league needs to decide if they wish to be part of the committee that will work with the consultant. She, then speaking on behalf of herself, felt that the process that involved the selection of this design consultant was not done with adequate review and input.

Jerry Kimball noted the importance of good physical planning; and that the boundaries and what will be in the area around the public areas are a very important issue.

John Scott, representing the Damberg Scott Gerzina and Wagner, Architects, noted that if this resolution is approved, they would be the local architect representing BRW, Inc. He noted that BRW, Inc., is one of the finest architectural firms in Minnesota, that it has national recognition, noting the background of specific staff members. Mr. Scott stated that his firm would be working with BRW, Inc., to bring the local flavor, by understanding and listening to the concerns of Duluthians. To council questions, he stated that there are significant parties adjoining this site with opportunity to take a good look at what is happening. Mr. Scott noted that the planning process that has been proposed is very important. He further stated that the development of the park area will take into consideration the possible uses for the area surrounding the park.

Councilor Prettner Solon noted the national and international credits of BRW, Inc., and the amount of experience that they have.

President Keenan voiced support for the resolution, noting that the safeguards of the project management team, the Bayfront task force, the city council and the citizens that are watching over this project.

Mayor Doty reported that the RFQ was sent out on October 20, 1999, and it was due by October 29, 1999. He further reported that on November 6, 1999, the firm of BRW, Inc., was selected, and they were given until November 23, 1999, to submit a RFP.

Mike Conlan noted that, regarding the issue that there was only one day to respond to the RFQ date of October 29, a party inquired about this issue and was faxed the information on October 28, that is, the date of the fax transmission response was the day before the deadline.

To Councilor Edwards' questioning, Mayor Doty stated that he would be willing to add Kent Worley to the project management review committee, if he, also as an architect, would be serving in an objective manner, in relationship to the contracted architect for the project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

To Mayor Doty's question, Mr. Worley stated that he would be able to serve in an objective manner on the committee.

Councilor Gilbert moved to suspend the rules to hear a speaker, which motion was seconded and failed upon the following vote:

Yeas: Councilors Fena, Gilbert and Hogg -- 3

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

Councilor Gilbert felt that the council should wait and not start the project on a controversial note, but to build confidence and support. He thought that a short delay would not hurt, because the city council has learned the hard way that if the council does not do it right, it leads to referendums and other controversies. Additionally, he felt the process has been marred and that the council should listen to an individual who wishes to present information and was disappointed with the process.

Councilor Hogg stated that initially his concerns were the RFP limiting the area for the design consultants to the city-owned parcel and designing the festival park before the city council knows what will be around it. He noted that Mr. Conlan's and Mr. Scott's comments have addressed his concerns.

To Councilor Hogg's questioning, Mayor Doty stated that he has requested a January 15, 2000, completion date from the task force.

Resolution 99-0803 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth desires architectural services; and

WHEREAS, the city desires to hire a consulting engineer to provide the architectural services required for the Bayfront Festival Park; and

WHEREAS, BRW, Inc., has submitted a proposal for architectural services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with BRW, Inc., to provide the city with such architectural services.

BE IT FURTHER RESOLVED, that the cost of said architectural services, estimated at \$95,750, will be payable from the Capital Improvements Fund 450, Dept./Agency 015, Organization 1999, Object C921.

Resolution 99-0803 was adopted upon the following vote:

Yeas: Councilors Edwards, Fena, Hales, Hogg, Prettner Solon, Rapaich and President Keenan -- 7

Nays: Councilor Gilbert -- 1

Approved December 6, 1999

GARY L. DOTY, Mayor

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Resolution 99-0832, by Councilor Prettner, vacating a portion of East Second Street and an alley easement located east of 36th Avenue East and north of East First Street (McDonald/Kaiser/Moser), was introduced for discussion.

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

William Moser noted that this property has no curves, walks, roads, sewer, power, gas and is requesting this vacation.

Resolution 99-0832 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of platted East Second Street from the easterly line of 36th Avenue East to the northerly line of East

First Street and of the platted alley easement lying between Lots 12 and 13, Block 9, all in Crescent View 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 unanimously approved the vacation petition at its November 17, 1999, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the street and alley easement described above, and as more particularly described on Public Document No. 99-1206-16.

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 and alley easements to be vacated.

Resolution 99-0832 was unanimously adopted.

Approved December 6, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with RREM, for the sum of not to exceed \$6,780, from Capital Fund 450, Agency 015, Org. 1996, Obj. C602, for providing certain surveying services to the city of Duluth in connection with Bayfront Festival Park, 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. 99-1206-20.

Resolution 99-0842 was unanimously adopted.

Approved December 6, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0841, by President Keenan, requesting the administration and Bayfront task force to conduct a nationwide search for an architect and to establish a project management team, was introduced for discussion.

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

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR HOGG

99-035 - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2000 APPROPRIATION 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

99-036 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE YEAR 2000.

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BY COUNCILOR HOGG

99-038 - AN ORDINANCE PERTAINING TO CITY SALES TAX; ADOPTING THE STATE OF MINNESOTA SALES TAX BASE, USE TAX AND TAX EXEMPTIONS AS REQUIRED BY MINNESOTA STATUTES SECTION 297A.48; AMENDING SECTIONS 42A-1, 42A-2, 42A-3, 42A-5, 42A-9, 42A-14, 42A-18 AND 42A-29, AND REPEALING SECTIONS 42A-21, 42A-25, 42A-25.1, 42A-25.2, 42A-25.3, 42A-25.4, 42A-25.5, 42A-25.6, 42A-25.8, 42A-25.9, 42A-25.10, 42A-25.11, 42A-25.13, 42A-25.15, 42A-25.16, 42A-25.17, 42A-25.18, 42A-25.19, 42A-25.20, 42A-25.21, 42A-25.22, 42A-25.23, 42A-25.24, 42A-25.25, 42A-25.26, 42A-25.27, 42A-25.28, 42A-25.29, 42A-25.30, 42A-25.31, 42A-25.32, 42A-25.33 AND 42A-25.34 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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BY COUNCILOR PRETTNER SOLON

99-037 - AN ORDINANCE AMENDING THE TERMS OF ORDINANCE NUMBER 9103 GRANTING THE CONCURRENT USE OF AN AERIAL EASEMENT ABOVE, OVER AND ACROSS CERTAIN STREETS, AVENUES AND ALLEY WITHIN THE PLAT OF SUMMIT PARK DIVISION AND REARRANGEMENT OF PART OF SUMMIT PARK DIVISION (NORTHLAND BROADCASTING).

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The meeting was adjourned at 10:35 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 20, 1999, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Fena, Gilbert, Hogg, Prettner Solon, Rapaich and President Keenan -- 7

Absent: Councilor Hales -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

99-1220-16 Evensen Dodge, Inc., submitting presale analysis for issuance of \$9,000,000 G.O. tax and aid anticipation certificates of indebtedness of 2000. -- Received

99-1220-17 Duluth Convention and Visitors Bureau submitting letter regarding 1999 advertising and promotional services (99-0891R). -- Received

99-1220-18 United Parcel Service submitting letter regarding stormwater utility charges and fees (99-0710R). -- Received

99-1220-01 The following submitting letters regarding compulsive gambling programs (99-0860R and 99-0861R): (a) Duluth senior programs division; (b) Life House, Inc. -- Received

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REPORTS OF OFFICERS

99-1220-02 Assessor submitting letter of sufficiency regarding petition to vacate Lots 2, 3, 31 and 32, Block 3, Oatka Beach Addition to Duluth. -- Received

99-1220-03 Building official submitting appeal of Kent Hilman to reverse the building appeals board denial to suspend rental license for a six unit apartment building located at 1905 East Superior Street. -- Committee 2 (planning)

99-1220-04 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses (bingo) from St. Johns Church on December 5, 1999, and April 5, 2000. -- Received

99-1220-05 Community development and housing division submitting HRA housing rehabilitation report for November, 1999. -- Received

99-1220-06 Engineering division submitting monthly project status report of December 1, 1999. -- Received

99-1220-07 Parks and recreation department director submitting Lake Superior zoological society minutes of December 8, 1998, meeting. -- Received

99-1220-08 Public works and utilities director submitting stormwater utility structure report (99-0690R and 99-0710R).-- Received

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REPORTS OF BOARDS AND COMMISSIONS

99-1220-09 Civil service board minutes of October 4, 1999, meeting. -- Received

99-1220-10 Duluth housing trust fund board and Duluth housing commission minutes of: (a) September 9; (b) October 14, 1999, meetings. -- Received

99-1220-11 Duluth transit authority: (a) Minutes of November 3, 1999, meeting; (b) Summary of reasons for discontinuance of mall area connector. -- Received

99-1220-12 Heritage preservation commission minutes of October 12, 1999, meeting. -- Received

99-1220-13 Housing and redevelopment authority minutes of October 26, 1999, meeting. -- Received

99-1220-14 Special assessment board minutes of November 16, 1999, meeting. -- Received

99-1220-15 Western Lake Superior Sanitary District submitting letter regarding formation of the North Shore sanitary district (99-0569R). -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Elijah spoke regarding drunks on the Lakewalk; a million dollar donation by the Duluth transit authority to UMD; and the Technology Village building.

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Tom Klenz spoke regarding the Wallace Avenue construction project which is included in the Year 2000 street improvement program. He expressed concern that since the improvement of 26th Avenue East the speed of traffic has increased. He encouraged the administration to hold neighborhood meetings to address the design of the street and what solutions may be available to remedy residents' concerns regarding street width and speed before the street is constructed.

- - -

Barb Koth, representing the tree commission, also spoke regarding the Wallace Avenue construction project and noted that it is a St. Louis County project. She raised concerns that the street and width, as presently proposed, threatens the surrounding green space known as urban wilderness. She encouraged the city to interact with St. Louis County regarding it's insensitivity to the tree issue before the acceptance of the plan.

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Responding to Councilor Gilbert, Acting Administrative Assistant Ollenburger, stated that with regard to county street improvements within the city, the city involves itself and tries, as much as is possible, to coordinate efforts with the county in the planning and design of the specific improvement.

- - -

K.L. Lewis complimented the Duluth police department for it's excellent work in domestic intervention; expressed her wish that the DTA reinstate the mall area connector for the safety of the riders; suggested a solution for the problem of drunks hanging out in various places; suggested that buoys be placed around the swimming area at Park Point for the safety of swimmers; and the deplorable condition of buildings and fire escapes on the lower side of Superior Street to Michigan Street from Lake Avenue to First Avenue East.

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Peggy Marin encouraged the council and new council members to continue to hold the city administration accountable for its actions.

- - -

Councilor Prettner Solon moved to consider Resolution 99-0892, by Councilor Hogg, approving the Year 2000 operating budget of Lake Superior Center, at this time, which motion was seconded and unanimously carried.

Resolution 99-0892 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the city council hereby approves the year 2000 budget of Lake Superior Center, which budget is on file in the office of the city clerk as Public Document No. 99-1220-32.

Resolution 99-0892 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute an amendment to the agreement between the city and the Duluth Convention and Visitors Bureau for advertising and promotion services during 1999, which amendment is on file with the city clerk as Public Document No. 99-1220-19, at a cost to the city of \$25,000, payable from Fund 258.

Resolution 99-0891 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that the city is hereby authorized to charge the following fees for developing and providing specialized computer information upon request of a member of the public:

Standard query	\$50	(includes the following: <ul style="list-style-type: none">- \$25 set-up and handling fee, including use of equipment, printer output and/or diskette- \$25 1/2 hour minimum development fee for processing))
Custom query	\$200 minimum	(includes the following: <ul style="list-style-type: none">- \$50 set-up and handling fee, includes use of equipment, printed output and/or diskette- \$50 per hour development fee for creating custom selection criteria -1 hour minimum- \$100 service fee - covers proofing, editing and verification of data and value added for getting specific information in a very time saving format) Optional fees: <ul style="list-style-type: none">- \$10 fee for label request- \$20 fee for CD-ROM media)
Repeat query	\$25	
Web-based query	\$25	Set-up and handling fee
	\$240	Annual maintenance and subscription fee

Resolution 99-0859 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

RESOLVED, that the city is hereby authorized to contract (Public Document No. 99-1220-20) with the Minnesota Council on Compulsive Gambling, Inc., for operation of a compulsive gambling prevention and education program during year 2000, at a cost to the city of \$148,096, which shall be payable from General Fund 015-1514 gambling administration.

Resolution 99-0860 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that the city is hereby authorized to contract (Public Document No. 99-1220-21) with Gamblers Intervention Services for the operation of an outreach gambling program during year 2000, at a cost to the city of \$90,000, which shall be payable from General Fund 015-1514 gambling administration.

Resolution 99-0861 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license by the liquor control commissioner, subject to departmental approvals, application fee of \$200, and any specific restrictions:

ALS Association, Northland Chapter (Eggebrecht Chevrolet ALS fund raiser), Army National Guard building, for January 29, 2000, with David Kolquist, manager.

Resolution 99-0865 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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

WHEREAS, in Resolution No. 94-0094 the Duluth City Council has adopted policy guidelines concerning under what circumstances available on sale liquor licenses should be issued; and

WHEREAS, the Duluth alcoholic beverage board has held hearings and received both oral comments and written proposals concerning the issuance of the respective licenses and the Duluth City Council has reviewed minutes of said hearings and has examined all exhibits and written proposals; and

WHEREAS, the Duluth City Council has duly considered all comments, proposals and evidence concerning the issuance of the licenses; and

WHEREAS, an examination of all comments, proposals and evidence indicates that all three applicants are fully qualified to hold a liquor license and are or will be restaurants that meet standards set in the policy guidelines for the issuance of unissued on sale intoxicating liquor licenses; and

WHEREAS, the alcoholic beverage board has considered and discussed the merits of each of the applicants and has passed a resolution recommending that the license be issued to the Hacienda Del Sol, Inc. (Hacienda Del Sol), 319 East Superior Street;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

BE IT RESOLVED, that the city council of the city of Duluth, hereby issues an on sale intoxicating liquor and on sale Sunday license for the period ending August 31, 2000, subject to departmental approvals, the payment of sales and property taxes, to the following:

Hacienda Del Sol, Inc. (Hacienda Del Sol), 319 East Superior Street, with Kevin Deutsch, president and 100 percent stockholder.

FURTHER RESOLVED, that said license shall be nontransferable to another location or another person or entity for a period of ten years.

Resolution 99-0866 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth city council approves of the Minnesota gambling control board issuing a premise permit to the following organizations.

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

	<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
1.	Climb Theater	Stadium Lanes	November 22, 1999
2.	Hermantown Amateur Hockey Association	Western Tavern	December 8, 1999

Resolution 99-0874 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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

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

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

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

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

Resolution 99-0875 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that G.E. 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 in accordance with specifications and referencing state of Minnesota Contract #400120 pricing for the various city departments, terms net 30, FOB destination, payable out of various funds, dept./agencies, organizations, objects. Not to exceed the year 2000 budget allocation for computer equipment as approved by the budget ordinance for capital equipment.

Resolution 99-0879 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to execute an administrative services agreement with SuperiorUSA Benefits Corporation to provide communication, implementation and management of a flexible benefits plan for city employees for year 2000, 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. 99-1220-22, on file with the city clerk, at an estimated cost of \$12,746, which shall be paid from the General Fund 100, Agency 700, Org. 1479.

Resolution 99-0885 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to renew its agreement with Minnesota Mutual Life to provide group term life insurance coverage for city employees and retirees during the year 2000 at the amounts specified in various bargaining unit contracts, under which agreement the city will purchase such insurance at a rate of \$.35 per thousand per month, at an estimated cost of \$171,430, which shall be payable from various funds and agencies.

Resolution 99-0886 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the proper city officials are authorized to purchase insurance from the Workers' Compensation Reinsurance Association for the year 2000, at an estimated cost of \$22,862, which shall be payable from the self insurance fund.

Resolution 99-0887 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that the city is hereby authorized to renew an agreement with Delta Dental for year 2000 for administrative services to the city in connection with its self funded employee

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

dental plan, at a rate of \$1.85/month for single coverage, \$3.67/month for employee plus spouse and \$5.52/month for employee plus two or more dependents, at an estimated total cost of \$35,844, which shall be payable from Fund 633.

Resolution 99-0888 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

DEFERRED COMPENSATION PLAN COMMISSION

John Beyer (police) for a term expiring December 31, 2003.

Resolution 99-0844 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

ENVIRONMENTAL ADVISORY COUNCIL

Robert A. Seitz (environmental), Linda R. Sellner and Kinnan Stauber for terms expiring January 5, 2003.

Resolution 99-0845 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the following reappointment is hereby made by the city council:

NORTH SHORE WASTEWATER BOARD

Eugene Elliott for a term expiring December 31, 2002.

Resolution 99-0846 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

PLANNING COMMISSION

Ronald D. DeGrio and Jeffrey Jackson for terms expiring December 31, 2003.

Resolution 99-0847 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

DEFERRED COMPENSATION PLAN COMMISSION

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Norma Johnson (confidential) for a term expiring December 31, 2003, replacing Janice Mattson.

Resolution 99-0862 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

DULUTH HOUSING COMMISSION

Judy H. Brown (real estate) for a term expiring November 8, 2002, replacing Dean Casperson.

DULUTH HOUSING TRUST FUND BOARD

Judy H. Brown (real estate) for a term expiring September 30, 2002, replacing Dean Casperson.

Resolution 99-0872 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

PARKS AND RECREATION COMMISSION

William J. Bird (District 5) for a term expiring February 13, 2002, replacing Candace Brown who resigned.

Resolution 99-0873 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

HOUSING AND REDEVELOPMENT AUTHORITY

Janet Carter for a term expiring January 3, 2005.

Resolution 99-0876 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to execute a CDBG consent, assignment and assumption agreement, substantially in the form of the copy of file in the office of the city clerk as Public Document No. 99-1220-23, with United Cerebral Palsey Housing Development #2 (UCP#2) and ASI Redruth, Inc. (ASI), relating to Redruth Apartments, contingent upon the following:

- (a) Approval by DEDA of development agreement documents with ASI;
- (b) Approval by U.S. department of housing and urban development (HUD) of the transfer of Redruth Apartments from UCP#2 to ASI;
- (c) The transfer of Redruth Apartments from UCP#2 to ASI.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Resolution 99-0868 was unanimously adopted.
Approved December 20, 1999
GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are authorized and directed to execute that certain agreement filed as Public Document No. 99-1220-24, 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 \$157,500 to be paid from General Fund 100-015-2050-5541.

Resolution 99-0840 was unanimously adopted.
Approved December 20, 1999
GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

BE IT RESOLVED, that the proper city officials are authorized to pay \$7,293.50 to D&D Enterprises, d/b/a Mr. D's Bar and Grill, in settlement of all claims arising out of a sewer backup on October 4, 1999; payment to be made from self insurance fund.

Resolution 99-0850 was unanimously adopted.
Approved December 20, 1999
GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, the proper city officers are hereby authorized to execute an agreement, on file in the office of the city clerk as Public Document No. 99-1220-25, with the Woodland Gardens Association for the nonexclusive use of the recreation room of the Woodland Gardens Apartments, from January 1, 2000, through December 31, 2000, for the operation of the Duluth senior dining program.

Resolution 99-0856 was unanimously adopted.
Approved December 20, 1999
GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, the proper city officers are hereby authorized and directed to execute an agreement, on file in the office of the city clerk as Public Document No. 99-1220-26, 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, 2000, through December 31, 2000, for the operation of the Duluth senior dining program at a cost of \$6,600, payable at \$550 per month. All funds expended by the city pursuant to this agreement shall be drawn upon Fund 272, Dept. 031, Org. 6300.

Resolution 99-0857 was unanimously adopted.
Approved December 20, 1999
GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and the Arrowhead Regional Development Commission for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

the furnishing of meals for eligible senior citizens during the period from January 1, 2000, through December 31, 2000, said agreement filed as Public Document No. 99-1220-27.

RESOLVED FURTHER, that monies collected under said contract shall be deposited in Federal Program Fund 272, Dept/Agency 031, Organization 6300.

Resolution 99-0858 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute Amendment No. 1 to an agreement with Fryberger, Buchanan, Smith & Frederick, P.A. for legal services in connection with the condemnation of property on Rice Lake Road owned by the heirs of Stanley A. Lepak, which agreement is on file in the office of the city clerk as Public Document No. 99-1220-28, which amendment increases the estimated cost to the city of such services by \$33,500, which shall be payable from the Self Insurance Fund 605.

Resolution 99-0869 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN :

WHEREAS, by the Resolution of Intent numbered 99-0302, the council did request the administration to prepare plans and specifications for the construction of a two inch grinder pump system in Greysolon Road 650 feet west of 35th Avenue East (City Job No. 9163SA00); and

WHEREAS, an estimate has 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 \$19,500, payable from the Special Assessment Fund 810, Agency 038, Organization 5328, 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 No. 99-1122-12(b)(1), and which description is hereby incorporated herein by reference to Public Document No. 99-1122-12(b)(1); that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 99-0871 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

RESOLVED, that the proper city officers are authorized to execute that certain agreement filed with the city clerk as Public Document No. 99-1220-29, with Benedek Broadcasting Corporation and Melrose Pyrotechnics for the fireworks display at the Warmer by the Lake celebration on January 1, 2000.

Resolution 99-0877 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement an agreement with St. Louis County in substantially the same form and containing the same terms and conditions as that contract on file with the city clerk as Public Document No. 99-1220-30, which contract sets out the responsibilities of the parties in relation to maintenance and plowing of various roads. Any payments due will be from the General Fund 100-500-1920-5310.

Resolution 99-0882 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to accept \$389,750 in federal welfare to work funds and \$143,956 in state welfare to work funds from the Minnesota department of economic security in accordance with city Contract No. 18541, Resolution No. 99-0615, passed August 9, 1999. Said monies will be used to provide services under the federal and state welfare to work programs as defined in the program year 1999-2000 welfare to work plan from July 1, 1999, through September 30, 2001. Funds received will be deposited in Fund No. 268, Budget Items 6236 (\$389,750) and 6237 (\$143,956).

Resolution 99-0838 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

WHEREAS, Article 11 of year of the city legislation from the state of Minnesota established a community resource program for the purpose of developing viable urban communities through the provision of needed services in targeted neighborhoods; and

WHEREAS, the state of Minnesota department of trade and economic development is authorized to make grants to cities of St. Paul, Minneapolis, and Duluth to finance a local community resource program, approved in accordance with Article 11 of said legislation; and

WHEREAS, the city of Duluth desires to carry out a community resource program;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby makes a finding that expenditures will serve the objectives for assisting the residents of the targeted neighborhoods, and that the proper city officers are hereby authorized to make and submit appropriate documentation to the state of Minnesota department of trade and economic development for those projects and corresponding levels as set forth below:

COMMUNITY RESOURCE PROGRAM

1999 - 2000 FUNDING RECOMMENDATIONS

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

\$ 4,000	Duluth police department intern program
\$20,000	Older workers program supplement
\$15,000	CRP self-sufficiency fund
\$11,521	Handicapped/disabled youth supported work experience
<u>\$ 8,915</u>	Administrative costs
\$59,436	Total

BE IT FURTHER RESOLVED, that the city of Duluth and its officers are authorized to assume full responsibility for assuring that its community resource program is carried out in full compliance with the provisions of Article II of the said act.

Resolution 99-0839 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to accept an additional \$7,754 in Job Training Partnership Act eight percent education funds from the Minnesota department of economic security for the period July 1, 1999, through June 30, 2000. In accordance with notice of funds available (NFA 99-05) dated December 2, 1999, the total budget shall be increased from \$12,941 to \$20,695.

FURTHER RESOLVED, that monies received shall continue to be deposited in Fund 268, Budget Item 6228.

Resolution 99-0851 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to accept an additional \$933 in Job Training Partnership Act eight percent education funds from the Minnesota department of economic security to continue operation of the older workers program through June 30, 2000. In accordance with the notice of funds available (NFA 98-05) dated December 2, 1999, total budget will be increased from \$12,370 to \$13,663.

FURTHER RESOLVED, that monies received shall continue to be deposited in Fund 268, Budget Item 6218.

Resolution 99-0852 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, the St. Louis County social services department hereby is awarded a contract for furnishing approximately 63,000 hot meals for senior citizens at eight mealsite locations in Duluth for a 12 month period for the senior dining division in accordance with specifications of its proposal of \$2.37 per regular meal, \$1.60 per meatless meal, and \$3.50 per picnic meal or approximately \$149,310, payable out of Federal Program Fund 272, Dept./Agency 031, Organization 6300, Activities SD04 and SD06, Objects 0070/0071/0072/0073.

Resolution 99-0854 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, the St. Louis County social services department hereby is awarded a contract for furnishing approximately 49,000 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, an additional \$0.27 per meal for dining room management provided at Lincoln Park as needed, and \$4 per meal for guest or approximately \$176,063, payable out of Federal Program Fund 272, Dept./Agency 031, Organization 6300, Activity SD04, Object 0071.

Resolution 99-0855 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, pursuant to Sections 43-5 and 43-11 of the Duluth City Code, 1959, as amended, for the purpose of recovering Western Lake Superior District wastewater facility user charges made to the city, there is established and shall be collected beginning with the meter readings made on January 3, 2000, and thereafter, a customer charge and user charges, based upon the volume of waste water discharged to the city's wastewater facilities system and determined as in Section 43-7 of the Duluth City Code, as follows:

Customer charge	\$5.89 per month
User charge - Class I	\$2.6769/ccf
User charge - Class II	\$3.7263/ccf
User charge - Class III	\$4.6474/ccf
Miles, Inc.	\$8.5815/ccf
Chroma	\$5.1161/ccf
Kemp	\$5.7638/ccf

BE IT FINALLY RESOLVED, that the rate regulations established and approved by Resolution 98-1022 are rescinded as of January 2, 2000.

Resolution 99-0831 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that effective with the meter readings on and after January 1, 2000, all customers of the Duluth steam utility division of the water and gas department of the city of Duluth, whose steam supply is measured by meter, shall be charged for such steam in accordance with the schedule of rates established by this resolution, as follows:

MONTHLY RATES

The total cost shall consist of the sum of:

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

- (1) Customer charge:

Charge	Additional charge for
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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

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

(2) Steam Charge:

<u>Consumption per month</u>	<u>Rate per M lbs.</u>
First 235 M lbs.	\$ 9.99
Next 2,265 M lbs.	8.84
Over 2,500 M lbs.	7.95

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

Fuel adjustment charge calculated as follows:

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

$M = \frac{A+B}{S}$	$N = \frac{(H \times DC) + (I \times FG) + J \times E}{S}$
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- Where
- A Total cost of coal used during the month
 - B Total cost of gas used during the month
 - C Tons of eastern coal used during the month
 - D Weighted average BTU content of eastern coal used (MMBTU per ton) divided by 28 MMBTU
 - E Thousands of cubic feet of gas used during the month
 - G Tons of western coal used during the month
 - F Weighted average BTU content of western coal used during the month (MMBTU per ton) divided by 18.8 MMBTU
 - S Thousands of pounds of steam sold during the month
 - H Contract price for eastern coal
 - I Contract price for western coal
 - J Contract price for natural gas

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

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

Resolution 99-0864 was unanimously adopted.

Approved December 20, 1999

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Trenchers Plus, Inc., be and hereby is awarded a contract for furnishing and delivering a trench box and accessories for the sewer division in accordance with specifications on its low specification bid of \$16,975.04, terms net 30, FOB destination, payable out of Storm Water Fund 535, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 99-0867 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Resolution 97-0857 to Northland Constructors, Inc., for construction of Railroad Street between Garfield Avenue and Eighth Avenue West, be amended to increase the amount by \$548,898.75 for a new total of \$2,608,521.61, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5299, Object 5330.

Resolution 99-0870 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Northern Energetics for professional services relating to energy audits of 600 single and multi-family homes per year, for years 2000 and 2001, which agreement is on file in the office of the city clerk as Public Document No. 99-1220-31; payment not to exceed \$61,500, payable from the Public Utility Gas Fund 556, Department 950, Object 5441.

Resolution 99-0878 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Van Waters & Rogers, Inc., be and hereby is awarded a contract for furnishing and delivering 100,000 gallons of caustic soda (50 percent) for the public works and utilities department in accordance with specifications on its low specification bid of \$85,700, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5238.

Resolution 99-0883 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Thunder Bay Chemicals, Ltd., be and hereby is awarded a contract for furnishing and delivering 150,000 gallons of liquid aluminum sulfate for the public works and utilities department in accordance with specifications on its low specification bid of \$59,895.00, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5237.

Resolution 99-0884 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Approved December 20, 1999
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Hawkins Chemical, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 290,000 pounds of hydrofluosilicic acid for the public works and utilities department in accordance with specifications on its low specification bid of \$25,367.75, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5236.

Resolution 99-0889 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking 2:00 AM to 6:00 AM zone is hereby established: both sides of Woodland Avenue from 50 feet north of Fourth Street to 150 feet north of Fifth Street.

Resolution 99-0848 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zone is hereby rescinded: both sides of 47th Avenue West from Grand Avenue to Fifth Street.

Resolution 99-0849 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to enter into agreements and accept grant monies from the Minnesota department of public safety, community-oriented policing overtime program to reimburse the Duluth police department for the salaries and benefits of officers working on need identified overtime projects from January 1, 2000, to December 31, 2001.

BE IT FURTHER RESOLVED, that the mayor is 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, Agency 200, Org. 1620.

Resolution 99-0890 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

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.

1.01 Pursuant to the authority contained in Minnesota Statutes, Sections 410.325 and

412.261, and Minnesota Statutes, Chapter 475, the city is authorized to issue its certificates of indebtedness in anticipation of collection of taxes and state aids.

1.02 Pursuant to the authority herein recited, the city council authorizes and directs the issuance, sale and delivery of certificates of indebtedness in anticipation of collection of taxes and state aids for the general fund of the city in the amount of \$9,000,000 to be dated February 1, 2000 (the certificates).

Section 2. Issuance and sale of the certificates. The terms and conditions of the certificates and the sale thereof are set forth in the official terms of offering, which is attached hereto as Exhibit A. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the certificates and the sale thereof, and the city council shall meet at the time and place fixed therein to consider proposals for the purchase of the certificates.

Section 3. Negotiated sale. Evensen Dodge, Inc., independent financial advisor to the city, is hereby authorized to solicit proposals for the sale of the certificates as provided by Minnesota Statutes, Section 475.60, Subdivision 2(9) pursuant to the terms of the official terms of offering.

Section 4. Subsequent resolution. The form, specifications and provisions for repayment of the certificates shall be set forth in agreements and subsequent resolutions of this city council.

Resolution 99-0853 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

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Resolutions 99-0880 and 99-0881, by Councilor Hogg, authorizing an agreement with the firm of Public Policy Partners, L.L.C. for Washington legislative services for a period of four months, at a cost to the city of \$20,000; and authorizing execution of an agreement with the firm of Public Policy Partners, L.L.C. to provide Washington legislative services to the city, at a cost to the city of not to exceed \$60,000 plus expenses, were introduced for discussion.

Councilor Prettner Solon acknowledged that Mr. Durenberger does an excellent job, however, she expressed concern about the actual amount of work that he does or does not do for the city, and that two of the six items he has worked on are matters that have to do with the state legislature and that the city has hired a Minnesota lobbyist who is quite effective in representing the city. She stated further that if the city is paying Mr. Durenberger \$300 per hour to represent the city, that he does not work on state issues that are already being paid for by other representative contracts.

Mr. Ollenburger stated that the reason the city has chosen this method of contract is so the city will get a monthly billing statement which will show which projects and individuals are working on specific projects and will be forwarded to the council to keep councilors better informed.

Councilor Gilbert stated that he was surprised to find that Mr. Durenberger is lobbying for federal funds for the McQuade access project. He continued that if the city is paying for that service, the council and public should know about it.

In response to Councilor Fena, Mr. Ollenburger stated that the city has not searched for another federal legislative lobbyist who would represent the city and its interest in the Year 2000. He suggested that the council invite Mr. Durenberger to attend a priority setting meeting early in the year and to establish a project list as it does with its state representatives.

Councilor Edwards stated that she is interested in seeing how much time Mr. Durenberger has spent on the McQuade public access project because his name has never come up during

meetings of the joint powers committee. She noted that it has been Congressman Oberstar who has done most of the work.

Councilor Rapaich noted that Mr. Durenberger does meet with Congressman Oberstar on issues of interest to the city.

President Keenan supported the resolutions.

Resolution 99-0880 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement extending an agreement with the firm of Public Policy Partners, L.L.C., for Washington legislative services for a four month period commencing on September 1, 1999, which extension agreement is on file in the office of the city clerk as Public Document No. 99-1220-33, at a cost to the city of \$20,000 plus expenses, which shall be payable from the General Fund 015-1510-5312.

Resolution 99-0880 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0881 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the firm of Public Policy Partners, L.L.C., to provide the city with Washington legislative services for a period of one year commencing January 1, 2000, which agreement is on file in the office of the city clerk as Public Document No. 99-1220-34, at a cost to the city of not to exceed \$60,000 plus certain expenses, which shall be payable from the General Fund 015-1510-5312.

Resolution 99-0881 was unanimously adopted.

Approved December 20, 1999

GARY L. DOTY, Mayor

- - -

Resolution 99-0863, by Councilor Prettner Solon, accepting the Duluth housing study goal, objectives and policy statement for residential development and adopting its priorities, was introduced for discussion.

Councilor Prettner Solon moved to table the resolution so that the issue can be studied by the new council in the Year 200, which motion was seconded and carried upon a unanimous vote.

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

BY COUNCILOR HOGG

99-035 (9431) - ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2000 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

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

- - -

BY COUNCILOR HOGG

99-036 (9432) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE YEAR 2000.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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

- - -

BY COUNCILOR HOGG

99-038 (9433) - AN ORDINANCE PERTAINING TO CITY SALES TAX; ADOPTING THE STATE OF MINNESOTA SALES TAX BASE, USE TAX AND TAX EXEMPTIONS AS REQUIRED BY MINNESOTA STATUTES SECTION 297A.48; AMENDING SECTIONS 42A-1, 42A-2, 42A-3, 42A-5, 42A-9, 42A-14, 42A-18 AND 42A-29, AND REPEALING SECTIONS 42A-21, 42A-25, 42A-25.1, 42A-25.2, 42A-25.3, 42A-25.4, 42A-25.5, 42A-25.6, 42A-25-8, 42A-25.9, 42A-25.10, 42A-25.11, 42A-25.13, 42A-25.15, 42A-25.16, 42A-25.17, 42A-25.18, 42A-25.19, 42A-25.20, 42A-25.21, 42A-25.22, 42A-25.23, 42A-25.24, 42A-25.25, 42A-25.26, 42A-25.27, 42A-25.28, 42A-25.29, 42A-25.30, 42A-25.31, 42A-25.32, 42A-25.33 AND 42A-25.34 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Hogg moved to amend the last paragraph of Section 6 (Section 42A-14) of the ordinance to read as follows:

“Purchases subject to use tax under this Section, except motor vehicles, are exempt if (1) the purchase is made by an individual for personal use, and (2) the total purchases that are subject to the use tax do not exceed \$770 in the calendar year. For purposes of this subdivision, “personal use” includes purchases for gifts. If an individual makes purchases, which are subject to use tax, of more than \$770 in the calendar year, the individual must pay the use tax on the entire amount. This exemption does not apply to purchases made from retailers who are required or registered to collect taxes under this Chapter,” which motion was seconded and carried upon a unanimous vote.

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

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BY COUNCILOR PRETTNER SOLON

99-037 (9434) - AN ORDINANCE AMENDING THE TERMS OF ORDINANCE NUMBER 9103 GRANTING THE CONCURRENT USE OF AN AERIAL EASEMENT ABOVE, OVER AND ACROSS CERTAIN STREETS, AVENUES AND ALLEY WITHIN THE PLAT OF SUMMIT PARK DIVISION AND REARRANGEMENT OF PART OF SUMMIT PARK DIVISION (NORTHLAND BROADCASTING).

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

- - -

The meeting was adjourned at 8:35 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9431

BY COUNCILOR HOGG:

AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR
2000 APPROPRIATION MONIES FOR THE SUPPORT OF THE
CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC
ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

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, 2000, the city council hereby budgets, determines and states the amount of money required to meet the principal and interest of maturing obligations comprising the outstanding indebtedness of such city; the amounts of money necessary to be provided for each such fund and each department of such city; and estimates the amount of income from all other sources and revenues, exclusive of taxes upon property, together with the probable amount required to be levied and raised by taxation to defray all expenses and obligations of such city during such fiscal year.

That the monies as so budgeted and hereinafter set forth shall be paid upon the presentation of properly verified vouchers bearing thereon the budget distribution for which such expenditures are to be charged in accordance with the detailed classification of accounts and the explanatory information of such as set forth in ordinance in effect governing same, excepting, however, payments for interest and sinking funds, which shall be paid in the manner set forth in Section 53 of the City Charter.

That any monies received by the several city departments as reimbursement for damages or repairs to city property or work done for others and not anticipated in the original budget may be credited to and added to the appropriate budget item upon approval by the director of finance.

That grants which have been approved by the appropriate state or federal agency and accepted by resolution of the city council may be added to the respective budget item upon approval of the finance director.

Section 2. That the finance director be authorized to approve the payments of \$2,012,500 from the public utility fund to the general fund for administrative services; comprised of \$1,949,500 or seven percent of the gross revenues of the gas utilities, from the public utility fund, gas division, to the general fund; and \$63,000 from public utility fund, steam division, to the general fund.

Section 3. That the mayor or the administrative assistant or his designee may make transfers from budget item to budget item as may be considered necessary for the proper administration of the city government for the year 2000. 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, 535 in the stormwater division, 540 in the steam division and 503 in the golf division.

Section 4. That the salaries shall be in accordance with the pay plan in effect as provided by Section 22 of the City Charter, as amended.

Section 5. That the city auditor may create or abolish an accounting fund when required by law or proper accounting procedures.

Section 6. That the finance director, or his designee, be authorized to make temporary loans to and from the city's various funds as needed in the conduction of the day-to-day operations of the city.

Section 7. That the appropriations as set forth in this Section constitutes the budget of the city of Duluth for the calendar year of 2000.

010 - LEGISLATIVE AND EXECUTIVE

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

1101	City council - total	\$ 149,100
1102	Mayor's office - total	156,700
1103	Administrative assistant - total	171,500
1104	Attorney's office - total	1,098,200
	Total legislative and executive	<u>\$ 1,575,500</u>

015 - ADMINISTRATIVE SERVICES

1510	Human resources - total	\$ 883,200
1511	Budget - total	178,200
1512	City clerk - total	605,900
1513	Data/word processing - total	1,132,100
1514	Other functions	805,500
1515	Facilities management	3,995,200
	Total administrative services	<u>\$ 7,600,100</u>

020 - PLANNING AND DEVELOPMENT DEPARTMENT

1200	Planning - total	\$ 382,300
1201	Building inspection - total	1,223,200
1202	Business development - total	497,700
	Total planning department	<u>\$ 2,103,200</u>

030 - FINANCE

1322	City assessor's office - total	630,100
1324	City auditor's office - total	1,372,100
1325	Purchasing office - total	302,700
1327	City treasurer's office - total	379,000
	Total finance and records	<u>\$ 2,683,900</u>

100 - FIRE DEPARTMENT

1501	Fire administration - total	\$ 359,900
1502	Firefighting operations - total	11,099,100
1503	Fire prevention and training - total	491,000
	Total fire department	<u>\$ 11,950,000</u>

200 - POLICE DEPARTMENT

1610	Administration - total	\$ 2,054,700
1620	Operations - total	10,187,500
	Total police department	<u>\$ 12,242,200</u>

300 - LIBRARY

1701	Director's office - total	\$ 557,700
1702	Library services - total	2,873,200
1703	Buildings and equipment - total	268,300
	Total library	<u>\$ 3,699,200</u>

400 - PARKS AND RECREATION

1812	Recreation and senior services-total	1,569,900
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

1814 Zoo - total 894,700
Total parks and recreation \$ 2,464,600

500 - PUBLIC WORKS

1910 Director's office - total \$ 238,200
1920 Maintenance - total 6,400,600
1925 Bridges - total 584,700
1930 Engineering services - total 1,568,800
1935 Traffic operations - total 680,000
Total public works \$ 9,472,300

700 - TRANSFERS

Total transfers \$ 7,693,600

PUBLIC ENTERPRISE

503 Golf fund - total \$ 1,952,400

PUBLIC UTILITIES

510 Water fund - total \$ 9,918,800
520 Gas fund - total 31,683,400
530 Sewer fund - total 16,533,100
535 Stormwater fund - total 3,045,200
540 Steam fund - total 3,351,100

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, 2000.

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

Yeas: Councilors Edwards, Fena, Gilbert, Hogg, Prettner Solon, Rapaich and President Keenan -- 7

Nays: None -- 0

Absent: Councilor Hales --1

ATTEST:

Passed December 20, 1999
Approved December 20, 1999

JEFFREY J. COX, City Clerk

GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9432

BY COUNCILOR HOGG:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY
TAXATION FOR THE YEAR 2000.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2000 hereby determined to be the sum of \$8,795,700, 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 2,914,300.

Section 3. For the payment of debt, there will be levied for the general obligation debt service fund the sum of 3,468,900.

Section 4. That pursuant to Laws of Minnesota, 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of 390,000.

Section 5. That pursuant to Minnesota Statutes, Section 469.053 Subd. 4, there will be levied for the purpose of providing funds for the Seaway Port authority fund of the city of Duluth, the sum of 284,900.

Section 6. That pursuant to Minnesota Statutes, Section 458A.51, Subd. 1, there will be levied for transit operations the sum of 1,737,600.

Section 7. That this ordinance shall take effect immediately upon passage and approval. (Effective date: December 20, 1999)

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

Yeas: Councilors Edwards, Fena, Gilbert, Hogg, Prettner Solon, Rapaich and President Keenan -- 7

Nays: None -- 0

Absent: Councilor Hales -- 1

Passed December 20, 1999

Approved December 20, 1999

ATTEST:

JEFFREY J. COX, City Clerk

GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9433

BY COUNCILOR HOGG:

AN ORDINANCE PERTAINING TO CITY SALES TAX; ADOPTING THE STATE OF MINNESOTA SALES TAX BASE, USE TAX AND TAX EXEMPTIONS AS REQUIRED BY MINNESOTA STATUTES SECTION 297A.48; AMENDING SECTIONS 42A-1, 42A-2, 42A-3, 42A-5, 42A-9, 42A-14, 42A-18 AND 42A-29, AND REPEALING SECTIONS 42A-21, 42A-25, 42A-25.1, 42A-25.2, 42A-25.3, 42A-25.4, 42A-25.5, 42A-25.6, 42A-25.8, 42A-25.9, 42A-25.10, 42A-25.11, 42A-25.13, 42A-25.15, 42A-25.16, 42A-25.17, 42A-25.18, 42A-25.19, 42A-25.20, 42A-25.21, 42A-25.22, 42A-25.23, 42A-25.24, 42A-25.25, 42A-25.26, 42A-25.27, 42A-25.28, 42A-25.29, 42A-25.30, 42A-25.31,

42A-25.32, 42A-25.33 AND 42A-25.34 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 42A-1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 42A-1. Definitions.

The definitions contained in Minnesota Statutes Section 297A.01, as the section may be amended from time to time, shall apply to this Chapter, except as modified or supplemented in this Section. The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Administrator. The director of finance and records of the city, or such other officer of the city as the mayor may designate, or such other private organization or public agency of the state as the city may contract with for purposes of collection and enforcement of the tax imposed by this Chapter.

Motor vehicle. Any self-propelled vehicle not operated exclusively upon railroad tracks and any vehicle propelled or drawn by a self-propelled vehicle and includes vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires but not operated upon rails, except snowmobiles, for which registration is required by Minnesota Statutes, Chapter 168, but not including house trailers or mobile homes.

Vehicle. Every device in, upon or by which any person or property may be transported or drawn upon a public highway, except devices by human power or animal power or used exclusively upon stationary rails or tracks.

Section 2. That Section 42A-2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 42A-2. Sales tax--imposed; amount of tax; exemptions.

(a) To provide funds for the purpose of general municipal operations, maintenance and capital improvements of the city, there shall be and is hereby imposed an excise tax of one percent on gross receipts of any person from sales at retail, including the sales of motor vehicles, as defined in this Chapter, made in the city. In no case shall the tax imposed hereby upon the seller exceed the amount of the tax which he is authorized and required by law to collect from the purchaser. Except in the case of motor vehicles and as otherwise provided in this Section, all goods and services that are exempt from taxation under the provisions of Minnesota Statutes Chapter 297A are exempt from taxation under this Chapter;

(b) In addition to the tax set forth in Subsection (a) of this Section, and notwithstanding any provision of law to the contrary, an additional tax of 1-1/2 percent is hereby imposed on gross receipts from the furnishing, preparing or serving for a consideration of food, meals or drinks, not including those prepared and served at hospitals, sanatoriums, nursing homes or senior citizens' homes, meals or drinks purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to the handicapped and their spouses by governmental agencies, nonprofit organizations, agencies or churches or pursuant to any program funded in whole or in part through 42 USCA Sections 3001 through 3045, wherever delivered, prepared or served, meals and lunches served at public and private schools, universities or colleges, or the occasional meal thereof by a

charitable or church organization. The tax imposed in this Subsection is subject to the exemptions set forth in Subsection (c) of this Section and to the limitations of Laws of Minnesota 1980, Chapter 511, as amended;

(c) The tax imposed by Subsection (b) above shall not be imposed:

(1) Upon business establishments doing less than \$100,000 in sales taxable under Subsection (b) in any current tax period from October 1 to September 30 of the next year;

(2) Upon business establishments which did less than \$100,000 in sales taxable under Subsection (b) in any current tax period from October 1 to September 30 immediately preceding the period from October 1 to September 30 in which the tax would be collected;

(d) New establishments. The exemption in Subsection (c)(2) above shall not apply to newly opened establishments or establishments which have not been in operation for one year on September 30. In the case of the above-mentioned establishments, the administrator shall make an estimate of the anticipated yearly sales volume of the establishment based on the size, type of operation, sales volume of similar establishments in the area and any other available relevant data. If the estimated yearly sales volume exceeds \$100,000, the establishment shall collect and remit the tax authorized in Subsection (b). If the establishment has not reached \$100,000 in sales taxable under Subsection (b) by the next September 30, taxes remitted by the establishment pursuant to Subsection (b) shall be refunded to the establishment in the manner provided in Section 42A-35 of this Chapter;

(e) Notwithstanding the provisions of paragraph (a) of this Section, for sales at retail of manufactured homes used for residential purposes the excise tax is imposed upon 65 percent of the sales price of the home.

Section 3. That Section 42A-3 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 42A-3. Same--Tax to be stated separately from sales price; tax constitutes debt from purchaser to seller; advertising no tax, assumption of tax, etc., prohibited; maximum tax-free sales; tax of less than \$.01; uniform tax collection methods by retailers authorized.

(a) The tax shall be stated and charged separately from the sales price or charge for service insofar as practicable and shall be collected by the seller from the purchaser insofar as practicable and shall be a debt from the purchaser to the seller recoverable at law in the same manner as other debts;

(b) In computing the tax to be collected as the result of any transaction, amounts of tax less than 1/2 of \$.01 may be disregarded and amounts of tax, if \$.005 or more may be considered an additional \$.01. If the sales price of any sale at retail is \$.49 or less, no tax shall be collected;

(c) Agreements between competitive retailers or the adoption of appropriate rules or regulations by organizations or associations of retailers to provide uniform methods for adding such tax or the average equivalent thereof, and which do not involve price fixing agreements otherwise unlawful, are expressly authorized and shall be held not in violation of any laws of this state prohibiting such agreements. The administrator may prescribe rules for such agreements.

Section 4. That Section 42A-5 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 42A-5. Operator of flea markets; seller's permits required.

The operator of a flea market, craft show, antique show, coin show, stamp show, comic book show, convention exhibit area or similar selling event, as a prerequisite to renting or leasing space on the premises owned or controlled by the operator to a person desiring to engage in or conduct business as a seller, shall obtain evidence that the seller is the holder of a valid seller's permit issued pursuant to Section 42A-4, or a written statement from the seller that the seller is not offering for sale any item that is taxable under this Chapter.

Flea market, craft show, antique show, coin show, stamp show, comic book show, convention exhibit area or similar selling event, as used in this Section, means an activity involving a series of sales sufficient in number, scope and character to constitute a regular course of business, and which would not qualify as an isolated or occasional sale pursuant to Minnesota Statutes Section 297A.25, Subd. 12.

Section 5. That Section 42A-9 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 42A-9. Same--Presumption that gross receipts subject to tax; burden of proof of exemption.

For the purpose of the proper administration of this Chapter, and to prevent evasion of the tax, it shall be presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale is not a sale at retail is upon the person who makes the sale, but such person may take from the purchaser an exemption certificate to the effect that the property purchased is for resale or that the sale is otherwise exempt from the application of the tax imposed by this Chapter.

Section 6. That Section 42A-14 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 42A-14. Use tax--imposed on use, storage, etc., of personal property, admissions and utilities; amount of tax.

For the privilege of using, storing, distributing or consuming in the city tangible personal property, purchased for use, storage or consumption in the city, there is hereby imposed on every person in this city a use tax at the rate of one percent of the sales price of sales at retail of any of the aforementioned items made to such person after the effective date of this Chapter, unless the tax imposed by this Chapter was paid on such sales price.

Motor vehicles subject to tax under this Section shall be taxed at their fair market value at the time of transport into the city of Duluth if such vehicles were acquired more than three months prior to their transport into this city.

Purchases subject to use tax under this Section, except motor vehicles, are exempt if (1) the purchase is made by an individual for personal use, and (2) the total purchases that are subject to the use tax do not exceed \$770 in the calendar year. For purposes of this subdivision, "personal use" includes purchases for gifts. If an individual makes purchases, which are subject to use tax, of more than \$770 in the calendar year, the individual must pay the use tax on the entire amount. This exemption does not apply to purchases made from retailers who are required or registered to collect taxes under this Chapter.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1999

Section 7. That Section 42A-18 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 42A-18. Same--Advertising no tax, assumption of tax, etc., prohibited; tax of less than \$.01.

In computing the tax to be collected as the result of any transaction, amounts of tax less than 1/2 of \$.01 may be disregarded and amounts of tax of \$.005 or more may be considered an additional cent.

Section 8. That Section 42A-29 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 42A-29. Adoption of rules and regulations.

The administrator shall promulgate all needful rules and regulations for the administration and enforcement of this Chapter not inconsistent with its provisions, and such regulations shall have the force and effect of law.

The administrator may, by reference, adopt such rules and regulations of the sales and use tax of the state as, in his judgment, are applicable and may be used in the administration of this Chapter.

Such rules, regulations, amendments and changes shall be filed with the city clerk and be open to public inspection.

The rules of the Minnesota department of revenue relating to sales and use taxes, specifically Chapter 8130 of Minnesota Rules, as it may be amended from time to time, shall apply to the collection of the tax authorized by this Chapter to the extent said rules are consistent with this Chapter.

In promulgating rules and regulations, the administrator shall endeavor to make said rules consistent with Minnesota department of revenue sales and use tax rules wherever possible.

Section 9. That Sections 42A-21, 42A-25, 42A-25.1, 42A-25.2, 42A-25.3, 42A-25.4, 42A-25.5, 42A-25.6, 42A-25.8, 42A-25.9, 42A-25.10, 42A-25.11, 42A-25.13, 42A-25.15, 42A-25.16, 42A-25.17, 42A-25.18, 42A-25.19, 42A-25.20, 42A-25.21, 42A-25.22, 42A-25.23, 42A-25.24, 42A-25.25, 42A-25.26, 42A-25.27, 42A-25.28, 42A-25.29, 42A-25.30, 42A-25.31, 42A-25.32, 42A-25.33, and 42A-25.34 be repealed in their entirety.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 29, 2000)

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

Yeas: Councilors Edwards, Fena, Gilbert, Hogg, Prettnner Solon, Rapaich and President Keenan -- 7

Nays: None -- 0

Absent: Councilor Hales -- 1

Passed December 20, 1999

Approved December 20, 1999

ATTEST:
JEFFREY J. COX, City Clerk

GARY L. DOTY, Mayor

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ORDINANCE NO. 9434

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AMENDING THE TERMS OF ORDINANCE
NUMBER 9103 GRANTING THE CONCURRENT USE OF AN

AERIAL EASEMENT ABOVE, OVER AND ACROSS CERTAIN
STREETS, AVENUES AND ALLEY WITHIN THE PLAT OF SUMMIT
PARK DIVISION AND REARRANGEMENT OF PART OF SUMMIT
PARK DIVISION (NORTHLAND BROADCASTING).

The city of Duluth does ordain:

Section 1. That Section 4. of Ordinance Number 9130 is hereby amended to read as follows: That this permit shall be issued for a period of 20 years from the effective date of this ordinance, and at such time the permittees may apply for renewal of this permit or the permittees shall remove said guy wires and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above, 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 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 29, 2000)

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

Yeas: Councilors Edwards, Fena, Gilbert, Hogg, Prettner Solon, Rapaich and President Keenan -- 7

Nays: None -- 0

Absent: Councilor Hales -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 20, 1999
Approved December 20, 1999
GARY L. DOTY, Mayor

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