



CITY
OF
DULUTH

**proceedings of the
CITY COUNCIL
2002**

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, January 7, 2002, 4:15 p.m. in Room 202, Harborside, Duluth Entertainment Convention Center, Duluth, Minnesota.

Roll call: Present: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 9

Absent: None -- 0

--

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0107-02a The following submitting communications regarding Resolution 01-0676 denying work permit applications of Spirit Ridge, LLC, related to the Spirit Ridge Project: (a) Jim Gearns; (b) H. Erickson; (c) Dean Korach; (d) Greg Price; (e) Spirit Ridge, LLC, by William M. Burns, attorney. -- Received

--

REPORTS OF OFFICERS

02-0107-01a Mayor Doty submitting veto of Resolution 01-0676 denying work permit applications of Spirit Ridge, LLC, related to the Spirit Ridge Project. -- Received

--

RESOLUTION FOR RECONSIDERATION

Resolution 01-0676, denying work permit application of Spirit Ridge, LLC, related to Spirit Ridge project, was introduced for discussion.

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

Warren Wirta; Peggy Marrin; Greg Price; Sharon Stevens, legal counsel for the Sierra Club; Kay L. Lewis; Elijah; Karin Dushane and Doug Happy supported the resolution for the reasons of: the land is sacred Indian burial grounds and a ceremonial site; the work permits do not fit the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

project at this point; when the project meets the requirements the correct process would be for the developer to apply; if there is no proof that a golf course would benefit Duluth, the old US Steel site should be considered; if the council does not approve this at this time, the developer would be granted permits from the state; the existing outdoor recreation of hiking, snowshoeing, bicycling , etc., create a good revenue for retailers; the topography does not show that it would be ideal for a golf course; legal issues have not been settled; economic development should be devoted to the technology sector, not tourism; a study has not been done to show that this would be good for that area; only a few people who will profit from this, other than the developer; there will be pollution and runoff from this development and that all the existing outdoor activities are unique to have in a city.

Mike Goldsmith opposed the resolution for the reason that this city is becoming known as an anti-development city that will not allow progress and create jobs.

William Burns, legal counsel representing the applicant, stated that: building a golf course at the old US Steel site would not benefit Spirit Mountain and the community economically; the permitting process of the Corps of Engineers, which has already been started, will address the Indian community's cultural significance of this area; the planning commission and the courts have ruled that there are no significant environmental issues and the city attorney has opined as to the views that may or may not be used in the legal process.

Councilors supporting the resolution felt that: earlier this year, the council passed a resolution that it would not consider any work permits until the Land and Water Conservation Act (LAWCON) and other issues were resolved; when the project comes back, it will have integrity; four years ago, when new councilors were sworn in, the council had just approved the master plan and the lease; if a permit cannot be reviewed in the amount of time that this has been going on, there are serious problems and if the LAWCON issues are not resolved, it will adversely affect other projects.

Councilors opposing the resolution cited reasons of: the developers know that if the LAWCON issue is not cleared up, there are no permits; that the LAWCON issues are the city's problem, not the developers; that the city should be working with the developers to insure that this is a competent project; it sends a poor message to the legislature, in that private investment dollars area being used for economic development and jobs, which is what the city is fighting for and the application for the permits was filed prior to the city council resolution regarding when the council would consider work permits.

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

The resolution failed upon the following vote [*six votes needed to override Mayor Doty's veto*]:

Yeas: Councilors Fena, Gilbert, Ness, Stewart and Stover -- 5

Nays: Councilors Eckenberg, Hogg, Stenberg and President Edwards -- 4

- - -

The meeting was adjourned at 5:15 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, January 7, 2002, 6:00 p.m. in the Harborside Ballroom, Duluth Entertainment Convention Center, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

ELECTION OF OFFICERS

Councilor Ness was elected president upon a unanimous vote.

Councilor Hogg was elected vice president upon a unanimous vote.

- - -

REPORTS OF OFFICERS

02-0107-01b Finance department director submitting communication appointing Genie Stark to the position of city auditor. – Received

- - -

UNFINISHED BUSINESS

Resolution 01-0871, by Councilor Stenberg, authorizing an agreement with Sinex Aviation Technologies in an amount not to exceed \$250,000 and authorizing acceptance of reimbursement from the Duluth economic development authority in the amount of \$50,000, was introduced for discussion.

Resolution 01-0871 was adopted as follows:

BY COUNCILOR STENBERG:

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. 02-0107-03, with Sinex Aviation Technologies (Silex) in a total amount not to exceed \$250,000, payable from Fund 0255, contingent upon receipt by the city of a Soft Center workforce development fund grant from the Minnesota Legislature.

FURTHER RESOLVED, that the Duluth City Council hereby accepts reimbursement from the Duluth economic development authority (DEDA) relating to the Silex project in the amount of \$50,000, said amount to be deposited into Fund 0255.

Resolution 01-0871 was unanimously adopted.

Approved January 7, 2002

GARY L. DOTY, Mayor

- - -

Resolution 01-0872, by Councilor Stenberg, authorizing an agreement with Connecting Point in an amount not to exceed \$48,306 and authorizing acceptance of reimbursement from the Duluth economic development authority in the amount of \$24,000, was introduced for discussion.

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

- - -

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are hereby authorized to execute a maintenance agreement with International Business Machines Corporation covering maintenance of various M.I.S. equipment beginning January 1, 2002, through December 31, 2002, at an estimated annual cost of approximately \$25,650, payable out of General Fund 0100, Dept./Agency 015, Organization 1513, Object 5404.

Resolution 02-0018 was unanimously adopted.

Approved January 7, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

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, 2002, through December 31, 2002, at an estimated annual cost of \$55,250, payable out of General Fund 0100, Dept./Agency 015, Organization 1513, Object 5319.

Resolution 02-0019 was unanimously adopted.

Approved January 7, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Taylor Circle and the spur street to the northwest of Taylor Circle, legally described as Taylor Circle to the northerly line of Airport Road and that street easement located between Lots 17 and 19, Block 4, all in Airport Division; and

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

WHEREAS, the city planning commission approved, unanimously, the street vacation petition at its December 8, 2001, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Taylor Circle and that street easement located between Lots 17 and 19, Block 4, all in Airport Division, as described above, and as more particularly shown on Public Document No. 02-0107-04, subject to the reservation of easements as described below.

BE IT FURTHER RESOLVED, that easements for utilities be retained within said vacated street easements as described below and as shown on Public Document No. 02-0107-04:

(a) An easement over the westerly 43.54 feet of that portion of Taylor Circle lying between Lots 19 and 20, Block 4 and Lot 1, Block 5, Airport Division;

(b) An easement over entirety of the street easement located between Lots 17 and 19, Block 4, Airport Division;

(c) An easement over the westerly 38 feet of the easterly 61 feet of that portion of Taylor Circle lying between Lot 4, Block 4 and Lot 1, Block 5, Airport Division;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

(d) The southerly ten feet of that portion of Taylor Circle lying between Lot 20, Block 4 and Lot 1, Block 5, and the southerly ten feet of that portion of Taylor's Circle lying between Lot 4, Block 4 and Lot 1, Block 5, Airport Division.

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

Resolution 02-0004 was unanimously adopted.

Approved January 7, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

WHEREAS, the St. Louis County social services department hereby is awarded a contract for furnishing approximately 32,100 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 \$3.77 per meal for eligible senior citizens, \$4.15 per meal for guests, and an additional \$0.28 per meal for dining room management provided at Lincoln Park, or approximately \$125,050, payable out of Federal Program Fund 0272, Dept./Agency 031, Organization 6302, Activity SD04, Object 0071.

Resolution 02-0005 was unanimously adopted.

Approved January 7, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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 utility operations division in accordance with specifications on its low specification bid of \$61,890, terms net 30, FOB destination, payable out of Water Fund 0510, Dept./Agency 500, Organization 1955, Object 5237.

Resolution 02-0017 was unanimously adopted.

Approved January 7, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Harcos Chemicals, Inc., be and hereby is awarded a contract for furnishing and delivering 100,000 gallons of caustic soda for the utility operations division in accordance with specifications on its low specification bid of \$78,600, terms net 30, FOB destination, payable out of Water Fund 0510, Dept./Agency 500, Organization 1955, Object 5238.

Resolution 02-0020 was unanimously adopted.

Approved January 7, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that LaRoche Industries, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 40,000 pounds of anhydrous ammonia for the utility operations division in accordance with specifications on its low specification bid of \$17,600, terms

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

net 30, FOB destination, payable out of Water Fund 0510, Dept./Agency 500, Organization 1955, Object 5234.

Resolution 02-0021 was unanimously adopted.
Approved January 7, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Bachman's, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 670 trees for the street improvement program and boulevard plantings for the forestry division during the year 2002 in accordance with specifications on its low specification bid of \$92,454.78, terms net 30, FOB destination, \$14,438.22 payable out of General Fund 0100, Dept./Agency 500, Organization 2010, Object 5225 and \$78,016.56 payable out of Street Improvement Program Fund 0440, Dept./Agency 038, organizations 0101, 0102, 0104, 0106, 0107, 0108, Object 5530.

Resolution 02-0022 was unanimously adopted.
Approved January 7, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Hawkins, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 145 tons of hydrofluosilicic acid for the utility operation division in accordance with specifications on its low specification bid of \$24,650, terms net 30, FOB destination, payable out of Water Fund 0510, Dept./Agency 500, Organization 1955, Object 5236.

Resolution 02-0023 was unanimously adopted.
Approved January 7, 2002
GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

WHEREAS, the proper city officers are hereby authorized and directed to execute an agreement, on file in the office of the city clerk as Public Document No. 02-0107-05, 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, 2002, through December 31, 2002, for the operation of the Duluth senior dining program at a cost of \$7,008, payable at \$584 per month. All funds expended by the city pursuant to this agreement shall be drawn upon Fund 0272, Dept. 031, Org. 6302.

Resolution 02-0006 was unanimously adopted.
Approved January 7, 2002
GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

WHEREAS, the proper city officers are hereby authorized to execute an agreement, on file in the office of the city clerk as Public Document No. 02-0107-06 with the Woodland Gardens Association, for the nonexclusive use of the recreation room of the Woodland Gardens Apartments, from January 1, 2002, through December 31, 2002, for the operation of the Duluth senior dining program.

Resolution 02-0007 was unanimously adopted.
Approved January 7, 2002

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that Resolution 00-0806 to St. Louis County social services for furnishing approximately 59,500 catered meals at eight senior dining locations for a 12 month period during year 2002, be amended to increase the amount by \$151,015 for a new total of \$316,422.50, payable out of Senior Nutrition Fund 0272, Dept./Agency 031, Organization 6302, objects 0071, 0070, 0072, 0073.

Resolution 02-0016 was unanimously adopted.

Approved January 7, 2002

GARY L. DOTY, Mayor

- - -

President Ness thanked councilors for their support and spoke of his view for the coming year. He introduced Mayor Doty.

- -

Mayor Doty presented the 2002 State of the City Address (Public Document No. 02-0107-02.)

- - -

Mayor Doty introduced the employees of the month from the past year and announced the selection of Steven Hanson as employee of the year.

- - -

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

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 14, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

The minutes of the council meeting held on December 3, 2001, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0114-01 Allen Boben, et al. (six signatures), submitting petition to reclassify from R-2 to C-1 property in Nortons Steel Plant Division of Duluth. -- Assessor

02-0114-02 Marvin and Margaret Heide submitting petitions to construct: (a) Watermain along Minnesota Avenue beginning at the intersection of Minnesota Avenue and Ninth Street to a point 190 feet north; (b) Low pressure sanitary sewer along Minnesota Avenue beginning at the intersection of Minnesota Avenue and Ninth Street to a point 155 feet north. -- Assessor

02-0114-03 Menard, Inc., submitting petition to vacate ten feet by 25 feet alley north of Lot 32, Block 171, and south of Lot 27, Block 171; ten feet by 125 feet alley north of Lots 4-9, Block 182, and south of Lot 4, Block 182; and 66 feet by 110 feet street (51st Avenue West) north of Wadena Street, east of Lot 28, Block 171, and west of Lot 5, Block 182, West Duluth Seventh Addition. -- Assessor

02-0114-04 Joe Sitek, Jr., submitting petition to vacate the south half of West Anoka Street from the westerly right-of-way of Maxwell Avenue to the westerly boundary of Outlot A, Hartley Estates First Addition. -- Assessor

02-0114-05 Minnesota department of transportation submitting environmental assessment worksheet for proposed construction of a 1.15 mile segment of Minnesota Trunk Highway 53/Piedmont Avenue from south of Fourth Street to 0.25 miles north of Skyline Parkway (01-0870R). -- Received

- - -

REPORTS OF OFFICERS

02-0114-17 Councilor Gilbert submitting copy of communication from Marty Weintraub regarding the proposed agreement with Duluth Convention and Visitors Bureau to provide advertising and promotion services for 2002 (02-0013R). -- Received

02-0114-06 Assessor submitting:

(a) Affidavit of mailing of notice of public hearing of the special assessment board on January 8, 2002, at 4:00 p.m. in Room 402, City Hall, regarding the proposed improvement of sanitary sewer in 14th Avenue East near 11th Street Alley. -- Clerk

(b) Letter for confirmation of assessment rolls levied to defray the assessable portions of: demolition of buildings, Contract 5345, (assessable amount - \$13,315.50); Trinity Road and Central Entrance traffic light, turn lanes, Contract 5327, (assessable amount - \$350,000); sidewalk and patch program for 2001, Contract 5337 (assessable amount - \$24,296.17); bituminous resurfacing of Commonwealth Avenue south of Hibbing Avenue, Contract 5346 (assessable amount - \$4,305.11); SIP 2000 Lower Chester, Contract 7045 (assessable amount - \$107,905.56);

(c) Letters of sufficiency of petitions for:

(1) Extension of the public sewer main to serve properties with street addresses 1007, 1011, 1016 and 1018 North 14th Avenue East;

(2) Vacation of south half of West Anoka Street from the westerly right-of-way of Maxwell Avenue to the westerly boundary of Outlot A, Hartley Estates First Addition;

(3) Vacation of ten feet by 25 feet alley north of Lot 32, Block 171 and south of Lot 27, Block 171; ten feet by 125 feet alley north of Lots 4-9, Block 182, and south of Lot 4, Block 182; and 66 feet by 110 feet street (51st Avenue West) north of Wadena Street, east of Lot 28, Block 171, and west of Lot 5, Block 182, West Duluth Seventh Addition;

(d) Letter of insufficiency of petition for the reclassification from R-2 to C-1, property described as Nortons Steel Plant Division, Lot 1, Block 7. -- Received

02-0114-18 Clerk submitting application to Minnesota gambling control board for exemption from lawful gambling license (raffle) from Duluth Community Sailing Association on October 6, 2002. -- Received

02-0114-07 Community development and housing division manager submitting:

(a) HRA housing rehabilitation report for October 2001;

(b) HUD-funded community development program quarterly status report for July-September, 2001. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-0114-08 Community development committee minutes of: (a) October 16; (b) October 23, 2001, meetings. -- Received

02-0114-09 Duluth airport authority: (a) Minutes of November 20, 2001, meeting; (b) Unaudited balance sheet of October 31, 2001. -- Received

02-0114-10 Duluth/North Shore sanitary district board minutes of December 4, 2001, meeting. -- Received

02-0114-11 Duluth transit authority: (a) Financial statement for October 2001; (b) Minutes of October 25, 2001, meeting. -- Received

02-0114-12 Environmental advisory council minutes of November 7, 2001, meeting. -- Received

02-0114-13 Heritage preservation commission minutes of November 27, 2001, meeting. -- Received

02-0114-14 Planning commission minutes of: (a) October 24; (b) November 13, 2001, meetings. -- Received

02-0114-15 Spirit Mountain recreation area authority: (a) Director's report of December 26, 2001; (b) Financial report for November 2001; (c) Minutes of November 28, 2001, meeting. -- Received

02-0114-16 Tree commission minutes of November 19, 2001, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Robert Wuorinen, Jr., commented (Public Document No. 02-0114-19) on his belief that the parking meters in Downtown Duluth should be removed to increase business or have "no charge" permits available for those who work Downtown.

- - -

Greg Price commented (Public Document No. 02-0114-20) on the federal funds available to clean up industrial sites, such as the former U S Steel site in Morgan Park, for industrial or commercial development.

- - -

Tiffany Nielsen expressed her concern regarding how difficult that it is for a low income individual to meet the deposit policy requirement of Comfort Systems (water and gas) to establish an account and how she was treated when she inquired as to what other arrangements could be made.

- - -

Kay L. Lewis commented on: the good ads about Spirit Mountain in Twin Cities newspapers; that Duluth should be included in the railroad passenger network; funding for clean-up of the Morgan Park site; that there should be a partnership with the University of Minnesota - Duluth (UMD) regarding the educational aspect of the aquarium and that there is a 12 month market already for products used in the existing recreational aspects of Spirit Mountain, such as rock climbing, hiking, birding, snowshoeing, cross country skiing, etc., and that golf is summer only.

- - -

Elijah commented on the need for police, in the evening, to be on the Downtown streets and buses to handle drug dealers, drunks and panhandlers.

- - -

RESOLUTIONS TABLED

Councilor Stenberg moved to remove Resolution 01-0818, denying a concurrent use permit to A&L Development, Inc., Pizza Lucé, Duluth Technology Village, 11 East Superior Street, for awnings into and over the easement for the right-of-way of East Superior Street, from the table, which motion was seconded and unanimously carried.

Councilor Stenberg stated that the applicant has had adequate time to withdraw their application and now there is need to act on it.

Resolution 01-0818 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, A&L Development, Inc., Pizza Lucé, Duluth Technology Village, has submitted to the city council a request for a concurrent use permit for two awnings to project four feet over the sidewalk at 11 East Superior Street, described as the west 1/2 of south 100 feet of Lot 1, East Superior Street, Duluth Proper First Division; southerly 99 feet of east 1/2 of Lot 1 and southerly 99 feet of Lot 2, East Superior Street; west 1/2 of Lot 5, East Superior Street, Duluth Proper First; and said permit application was duly referred to the city planning commission for a study, report, and public hearing, and the city planning commission has subsequently reported its recommendation of denial to the city council; and

WHEREAS, the recommendation of denial was made because of the city planning commission's findings that appropriate safeguards do not 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 concurrent use permit request is hereby denied to A and L Development, Inc., Pizza Lucé, Duluth Technology Village, to allow for the construction of an awning over the public street easement of East Superior Street for the following reasons:

- (a) The awning will alter the symmetrical architecture of the Superior Street facade;
- (b) On a seasonal basis, the awnings will create a sidewalk maintenance and safety issue, i.e. ice on the drip line of the awning;
- (c) This building is in a historic district as defined by the district court. The building was designed to reflect the historic character of the site and the former buildings and retractable awnings would be more in keeping with the historic character of the Old Downtown District and the architecture of the building.

Resolution 01-0818 was unanimously adopted.

Approved January 14, 2002
GARY L. DOTY, Mayor

- - -

Councilor Stenberg moved to remove Resolution 01-0872, authorizing an agreement with Connecting Point in an amount not to exceed \$48,306 and authorizing acceptance of reimbursement from the Duluth economic development authority in the amount of \$24,000, from the table, which motion was seconded and unanimously carried.

Resolution 01-0872 was adopted as follows:

BY COUNCILOR STENBERG:

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. 02-0114-21, with Connecting Point in a total amount not to exceed \$48,306, payable from Fund 0255, contingent upon receipt by the city of a Soft Center workforce development fund grant from the Minnesota Legislature.

FURTHER RESOLVED, that the Duluth City Council hereby accepts reimbursement from the Duluth economic development authority (DEDA) relating to the Connecting Point project in the amount of \$24,000, said amount to be deposited into Fund 0255.

Resolution 01-0872 was unanimously adopted.

Approved January 14, 2002
GARY L. DOTY, Mayor

- - -

Councilor Stenberg moved to remove Resolution 01-0906, amending Agreement No. 17911 with GDC for skywalk security services extending the term and increasing the amount payable by \$58,000, from the table, which motion was seconded and unanimously carried.

Councilors opposing the resolution expressed concern that: this is primarily for the benefit of one business; since last year, alternatives were not explored; there is a need for a comprehensive solution for skywalk security; with the status of reduced state funding there is a need to start trimming expenses and reimbursement from the benefitting business has not been pursued.

Councilors supporting the resolution sited the history of how this originally started and how this is an important factor to Downtown businesses.

Resolution 01-0906 failed upon the following vote (Public Document No. 02-0114-22):

Yeas: Councilors Atkins, Hogg, Stauber and Stenberg -- 4

Nays: Councilors Bergson, Gilbert, Stewart, Stover and President Ness -- 5

- - -

MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

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

BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are authorized and directed to execute that certain agreement filed as Public Document No. 02-0114-23 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 \$178,000 to be paid from General Fund 0100-015-2045-5441.

Resolution 02-0014 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Approved January 14, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the assessment rolls levied to defray the assessable portions of the following:

(a) Demolition of building at 114 East Seventh Street (Contract No. 5345 razing - assessable amount \$6,957.75);

(b) Demolition of building at 5812 Elinor Street (Contract No. 5345 razing - assessable amount \$6,357.75); are hereby confirmed.

Resolution 02-0026 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

WHEREAS, the Duluth City Council has confirmed assessments for the properties, amounts and dates listed on Public Document No. 02-0114-24; and

WHEREAS, the property referred to in said resolutions was forfeited to the state of Minnesota for nonpayment of real estate taxes but has since been returned to private ownership; and

WHEREAS, the city has held a hearing regarding the reassessment of said sums against said properties after notice to all necessary parties, said hearing and notice thereof complying with the requirements of Section 62 of the Duluth City Charter and Section 45-79 and any other applicable sections of the Duluth City Code, 1959, as amended; and

WHEREAS, the city council has determined that the work for which the assessments were originally levied have benefitted the respective properties by amounts at least equal to or in excess of amounts originally assessed against each such property, including the amounts of the canceled assessments.

RESOLVED, that pursuant to the authorization of Laws of Minnesota, 1997, Chapter 231, Article 2, Section 53, the following previously canceled assessments are hereby reassessed in the amounts set forth in the table and that this reassessment roll is hereby confirmed.

Resolution 02-0027 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

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 2002 Grandma's Marathon, which agreement is on file in the office of the city clerk as Public Document No. 02-0114-25, at a cost to the city of not to exceed \$22,700 plus in-kind services, which shall be paid from Fund 0258-030-1431-5490.

Resolution 02-0034 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the city is authorized to enter into a sponsorship agreement with North

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Shore Inline Marathon under which the city will contribute \$15,000 to assist with promotion of the year 2002 marathon, which agreement is on file in the office of the city clerk as Public Document No. 02-0114-26, and such contribution shall be paid from Fund 0258-030-1431-5490.

Resolution 02-0035 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

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 2002 John Beargrease Sled Dog Marathon, which agreement is on file in the office of the city clerk as Public Document No. 02-0114-27, at a cost to the city of \$10,000, which shall be payable from Fund 0258-030-1431-5490.

Resolution 02-0036 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

(a) It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its \$3,400,000 taxable general obligation airport improvement bonds, Series 2002A (the bonds). The bonds are hereby authorized and shall be issued, pursuant to Minnesota Laws 1974, Chapter 130, and Ordinance No. 9509 adopted October 22, 2001, for the purpose of financing a portion of the construction costs of an airplane manufacturing industry incubator project at the Duluth International Airport;

(b) The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 02-0114-28. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the Bonds and the sale thereof, and the city council shall meet at the time and place fixed therein to consider bids for the purchase of the bonds;

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

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

Resolution 02-0038 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

(a) It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue \$345,000 general obligation steam utility revenue bonds, Series 2002B (the bonds). The bonds are hereby authorized and shall be issued pursuant to Ordinance No. 9479, adopted February 26, 2001, Minnesota Statutes, Chapter 475, Minnesota Laws 1979, Chapter 113 and Section 55 of the Home Rule Charter of the city for the payment of the costs of improvements to the municipal steam utility;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

(b) The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 02-0114-29(a). Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed therein to consider bids for the purchase of the bonds;

(c) The council shall hold a public hearing on the issuance of the bonds at 5:00 p.m. on February 7, 2002, pursuant to Section 147(f) of the Internal Revenue Code. The form of the notice of public hearing is on file with the city clerk as Public Document No. 02-0114-29(b);

(d) Evensen Dodge, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sale of the bonds in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering;

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

Resolution 02-0039 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

(a) It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its \$10,000,000 general obligation tax and aid anticipation certificates of indebtedness of 2002 (the certificates). The certificates are hereby authorized and shall be issued pursuant to the authority contained in Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 475, in anticipation of collection of taxes and state aids;

(b) The terms and conditions of the certificates and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 02-0114-30. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the certificates and the sale thereof, and the city council shall meet at the time and place fixed therein to consider bids for the purchase of the certificates;

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

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

Resolution 02-0040 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the assessment roll levied to defray the assessable portion of the following:

Contract No. 5337 sidewalk repair for 2001 (assessable - \$24,296.18); is hereby confirmed.

Resolution 02-0043 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

- - -

BY COUNCILOR HOGG:

RESOLVED, that the assessment roll levied to defray the assessable portion of the following:

Contract No. 5346 (assessable amount - \$4,305.11) for the resurfacing of Commonwealth Avenue from 483 feet to 658 feet south of Hibbing Avenue; is hereby confirmed.

Resolution 02-0044 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the 2000 street improvement program assessment roll levied to defray the assessable portion of the following:

Contract No. 7045, UMD/Lower Chester (assessable - \$107,905.56); is hereby confirmed.

Resolution 02-0045 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the assessment roll levied to defray the assessable portion of the following:

Contract No. 5327, traffic light and turn lanes at Trinity Road and Central Entrance (assessable amount - \$350,000); is hereby confirmed.

Resolution 02-0047 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the city is hereby authorized to execute an agreement, filed as Public Document No. 02-0114-31, with Gamblers Intervention Services for the operation of an outreach gambling program during year 2002, at a cost to the city of \$90,000, which shall be payable from General Fund 0100-015-2040-5490 gambling administration.

Resolution 02-0028 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the city is hereby authorized to contract (Public Document No. 02-0114-32) with the Minnesota Council on Compulsive Gambling, Inc., for operation of a compulsive gambling prevention and education program during year 2002, at a cost to the city of \$148,096, which shall be payable from General Fund 0100, Agency 015, Organization 2040, Object 5490; to be encumbered out of year 2002 budget.

Resolution 02-0029 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BY COUNCILOR BERGSON:

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

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

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

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

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

Licensee	Gambling Site	Date Application Filed
Second Harvest Northern Lakes Food Bank	Reef Bar	January 2, 2002

Resolution 02-0050 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

WHEREAS, the Pheasants Forever, Rotary Club of Duluth Harbortown and Duluth Girls Hockey Association 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 Pheasants Forever, Rotary Club of Duluth Harbortown and Duluth Girls Hockey Association and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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

Resolution 02-0051 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

BE IT RESOLVED, that pursuant to Minnesota Statutes 204B.16, the following locations are designated as polling places for the January 15, 2002, special state partisan primary election and January 29, 2002, special state partisan general election:

POLLING PLACE	ADDRESS
7. Woodland Community Club	3211 Allendale Avenue
8. Glen Avon Presbyterian Church (Fellowship Hall)	2105 Woodland Avenue

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

POLLING PLACE	ADDRESS
12. Woodland Middle School (auditorium)	Clover and Eighth Street
13. U.M.D. Kirby Student Center (garden room)	10 University Drive
14. Kenwood Lutheran Church	324 West Cleveland Street
15. Chester Park United Methodist Church (lower level)	819 North 18th Avenue East
17. United Baptist Church (lower level)	830 East First Street
18. Trinity Lutheran Church (avenue entrance)	1108 East Eighth Street
19. Trinity Lutheran Church (avenue entrance)	1108 East Eighth Street
20. Peace Church (Tenth Avenue entrance)	1015 East 11th Street
21. First United Methodist Church (Lakeview social hall)	230 East Skyline Parkway
22. Central Hillside Community Center	12 East Fourth Street
23. Rainbow Senior Center (auditorium)	211 North Third Avenue East
24. Duluth Public Library (green room)	520 West Superior Street
25. Lafayette Square (upper level)	3026 Minnesota Avenue
26. St. Peter's Catholic Church (lower level)	818 West Third Street
27. Duluth Heights Community Club	33 West Mulberry Street
28. Lincoln Park Senior Center (lower level)	2014 West Third Street
29. Lincoln Park 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

POLLING PLACE	ADDRESS
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 January 15, 2002, and January 29, 2002, elections.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to establish and post temporary handicapped parking zones for the January 15, 2002, and January 29, 2002, 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 02-0052 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that pursuant to Minnesota Statutes 204B.21, the following persons are hereby appointed as election judges in the respective precincts for the January 15, 2002, special state partisan primary election and the January 29, 2002, special state partisan general election, as listed in Public Document No. 02-0114-33.

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.

RESOLVED FURTHER, if any person who is named on the list as a judge is unable to serve, the clerk is empowered to substitute the name of a qualified legal voter for the one who is unable to serve.

Resolution 02-0053 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

DULUTH AIRPORT AUTHORITY - Todd Fedora for a term expiring July 1, 2003, replacing Robert Heimbach.

Resolution 02-0010 was unanimously adopted.

Approved January 14, 2002

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2001 CDBG accounts; and

WHEREAS, the community development committee (CD committee) 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 0262, Agency 020, 2001 HUD-funded community development accounts as set forth below:

**2001 CDBG Transfers
Account revised - 2001**

Project #	Project	Budget amount	New amount	Amount of increase or decrease
6435	Program administration	\$322,350.00	\$327,651.45	\$5,301.45
4706	Revenue source	\$5,301.45	\$0	(\$5,301.45)

Resolution 02-0033 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the city of Duluth does hereby accept the conditional donation of that property in St. Louis County, Minnesota, described below from the Spirit Valley Citizens' Neighborhood Development Association conditioned on the vacation of a portion of an adjacent alley easement as set forth in the deed on file in the office of the city clerk as Public Document No. 02-0114-34, and the proper city officials are hereby authorized to execute all necessary documents pertaining to the acceptance of such donation:

the westerly five feet of Lot 16, Block 188, WEST DULUTH Seventh Division.

Resolution 02-0002 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

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 2002

File No.	Applicant	Legal Description	Location
01154	John Desmedt	all that part of former Northern Pacific Mainline across the plat of East Fond Du Lac in Section 8, T48-R15 lying west of the following described line: the extended boundary line of Lot 5, Block 25, plat of East Fond Du Lac extended to its intersection with the Northerly line of said former Northern Pacific Mainline across the plat of East Fond Du Lac in Section 8, T48-R15.	126 Avenue West and Fourth Street (Fond Du Lac)
01162	Northwood Children's Home	Whitman Park (10-4590-) Block 3 Lot 8 (270) Block 15 Lots 7-10 (2550, 2560, 2580, 2590)	north of DM&IR tracks between 40th Avenue and Duluth Avenue (West Duluth)

RESOLVED FURTHER, that File No. 01162 should be released to DEDA and if the project does not move forward, that the land be reclassified back to conservation at a later date.

Resolution 02-0003 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Fryberger, Buchanan, Smith & Frederick, P.A., under which that firm will provide professional services related to the city's 2002 state legislative program, which agreement is on file in the office of the city clerk as Public Document No. 02-0114-35, at a cost to the city of not to exceed \$42,230, which shall be payable from the General Fund 0100-015-2045-5312.

Resolution 02-0015 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that proper city officials are hereby authorized to accept an additional \$78,882 in state dislocated worker funds from the Minnesota department of trade and economic development in accordance with City Contract No. 18947, Resolution 01-0436, passed June 25, 2001. Said monies, in combination with the \$215,265 accepted under Resolution 01-0597, will bring the allocation of available funds to provide workforce development services to dislocated workers as defined in the amended program year 2001-2002 local plan to \$294,147. Funds received will be deposited in Fund 268, Budget Item 6251.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Resolution 02-0037 was unanimously adopted.
Approved January 14, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that proper city officials are hereby authorized to accept \$50,000 in state welfare-to-work (TANF) funds from the Minnesota department of economic security in accordance with City Contract No. 19048, Resolution No. 01-0688, passed September 24, 2001. Said monies to be used to provide intensive workforce development services to caretakers of children who are at-risk of reaching the 60 month eligibility limit for the Minnesota family investment program, as defined in the local plan for Minnesota welfare-to-work services for the period July 1, 2001, through June 30, 2003. Funds received will be deposited in Fund 268, Budget Item 6252.

Resolution 02-0041 was unanimously adopted.
Approved January 14, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file with the office of the city clerk as Public Document No. 02-0114-36, with job service for the provision of dislocated worker services pursuant to the Workforce Investment Act and Minnesota Statutes, Chapter 268 for the period January 1, 2002, through December 31, 2002, at costs not to exceed \$75,010 in federal funds and \$220,438 in state funds which shall be payable from Fund 268, budget items 6249 and 6251.

Resolution 02-0042 was unanimously adopted.
Approved January 14, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that proper city officials are hereby authorized to modify an existing five year, five month lease agreement with the state of Minnesota, department of administration, real estate management division (Public Document No. 02-0114-41), for office space on the second floor of the Government Services Center - 320 West Second Street in the suite known as the "Minnesota Workforce Center-Duluth." The five year, five month lease period runs from February 1, 1998, through June 30, 2003. The modification reduces the amount of space leased from 1,872 square feet to 1,855 square feet and reduces the monthly base rent from \$1,564.68 to \$1,550.47. The reduction of space and rent is effective when the city receives the December billing. The city's ongoing monthly base rent of \$1,550.47 will be continuous from December 1, 2001, through the end of the lease period June 30, 2003, unless further modified. The city continues to be obligated to pay a monthly construction charge of \$222.83 per month through the end of the lease period over and above the monthly base rate.

Resolution 02-0046 was unanimously adopted.
Approved January 14, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

RESOLVED, that the proper city officers are hereby authorized and directed to execute the real property purchase agreement with the Burlington Northern and Santa Fe Railroad Company, filed as Public Document No. 02-0114-37, for the acquisition of real property described as follows:

that portion of the Burlington Northern and Santa Fe Railway Company's (formerly Northern Pacific Railway Company) original 200.0 foot wide St. Paul to Duluth, Minnesota, main line right-of-way, being 100.0 feet wide on each side of said railway company's main track centerline, as originally located and constructed upon, over and across the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13, Township 49 North, Range 15 West of the Fourth P.M., St. Louis County, Minnesota, described as follows, to-wit:

beginning at the most southerly corner of Lot 6, Block 12 of Hunter and Markell's Grassy Point Addition to Duluth, Minnesota, according to the recorded plat thereof, said point being on the northwesterly boundary of said 200.0 foot wide right-of-way; thence southwesterly along said northwesterly boundary a distance of 510.0 feet; thence southeasterly at right angle to said northwesterly boundary line a distance of 23.0 feet; thence northeasterly parallel with said northwesterly boundary a distance of 510.0 feet to a point on the southeasterly extension of the southwesterly line of said Lot 6; thence northwesterly along said southeasterly extension of Lot 6 a distance of 23.0 feet to the point of beginning; also,

the southeasterly 30.0 feet of said railway company's 200.0 foot wide main line right-of-way upon, over and across a portion of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and Government Lot 2 of said Section 13, Township 49 North, Range 15 West, lying between two lines drawn parallel with and distant respectively, 70.0 feet and 100.0 feet southeasterly, as measured at right angle from said main track centerline, bounded on the north by the southeasterly extension of the northeasterly line of Lot 1, Block 5 of Hunter's Grassy Point Addition to Duluth Third Division and bounded on the south by a line drawn at right angles to said main track centerline from the most southwesterly corner of Outlot B in Hunter's Grassy Point Addition to Duluth; also,

all that portion of Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9, Block 3, and that portion of Lots 4, 5, 6, 7, 8, 9 and 10, Block 4 of Grassy Point Addition to Duluth, and Outlots A and B in Hunter's Grassy Point Addition to Duluth, all lying southeasterly of the hereinabove described 200 foot wide original St. Paul to Duluth main line right-of-way and lying 37.5 feet northwesterly of the West Superior branch line main track centerline as originally located and constructed; also,

the northerly 50 feet of the former Duluth Transfer Railway Company's 75 foot wide right-of-way across West Duluth Fourth Division and West Duluth Second Division, bounded on the east by the southerly extension of the centerline of 56th Avenue West of the city of Duluth, and bounded on the west by said Duluth Transfer Railway Company's most northwesterly right-of-way line at 61st Avenue West; EXCEPTING THEREFROM, the westerly 33.0 feet of 66 foot wide 58th Avenue West, the 20 foot wide alley lying between Block 73 of West Duluth Second Division and Block 74 of West Duluth Fourth Division to the city of Duluth, and all that portion of 100 foot wide 59th Avenue West in the city of Duluth;

for a consideration of \$129,100 to be paid from Fund 0521, Agency 500, Object 5532.

Resolution 02-0001 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer within North 14th Avenue East beginning at the intersection of North 14th Avenue East and Tenth Street and extending approximately 220 feet northerly.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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 02-0009 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, by the Resolution of Intent numbered 01-0730, the council did request the administration to prepare plans and specifications for the construction of a permanent design alley in 61st Avenue West alley between Bristol Street and Greene Street (City Project No. 0076TR); 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 \$50,000, of which \$50,000 is payable from the Special Assessment Fund 0410, Agency 038, Organization 5347, Object 5530; \$42,300 to be reimbursed 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 \$7,700 to be reimbursed from the Permanent Improvement Fund 0411; 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 02-0024 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, by the Resolution of Intent numbered 01-0726, the council did request the administration to prepare plans and specifications for the resurfacing of 103rd Avenue West Alley between McGonagle Street and 102nd Avenue West (City Project No. 0053TR); 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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 \$8,000, of which \$8,000 is payable from the Special Assessment Fund 0410, Agency 038, Organization 5348, Object 5530; \$7,200 to be reimbursed 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 \$800 to be reimbursed from the Permanent Improvement Fund 0411; 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 02-0025 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that the proper city officials are authorized to execute an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 02-0114-38 with the governing board of the North Country Library Cooperative, under which the Duluth public library will provide reference services to the libraries belonging to the seven-county north country library system during the period January 1, 2002, through December 31, 2002, payments by North Country Library Cooperative to the city thereunder in the estimated amount of \$5,700 to be deposited in the Library General Fund 0100-300-1702-4403.

Resolution 02-0008 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 02-0013, by Councilor Hogg, authorizing execution of an agreement with the Duluth Convention and Visitors Bureau to provide advertising and promotion services to the city of Duluth for the year 2002 at a cost to the city of \$1,089,400, was introduced for discussion.

Councilor Hogg moved to amend the agreement to the resolution, by adding the following paragraph:

"5. The bureau agrees to issue requests for qualifications and/or requests for proposals for professional services for all work to perform marketing and public relations services for bureau this year and at least once every three years thereafter," which motion was seconded by Councilor Gilbert for discussion.

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

Terry Mattson, executive director of the Duluth Visitor and Convention Bureau, (DVCB) noted that the DVCB is already implementing the 2002 marketing program and that the DVCB is at the point of addressing the marketing program for the year 2003.

President Ness proposed that the amendment might read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

"5. The bureau agrees to issue requests for qualifications and/or requests for proposals for professional services for all work to perform marketing and public relations services for bureau. This process will occur this year and at least once every three years thereafter."

Councilors Hogg and Gilbert accepted President Ness's suggestion as the new amendment.

The amendment carried as follows:

Yeas: Councilors Atikins, Bergson, Gilbert, Hogg, Stenberg, Stewart, Stover and President Ness -- 8

Nays: Councilor Stauber -- 1

Resolution 02-0013, as amended, was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Duluth Convention and Visitors Bureau, which agreement is on file in the office of the city clerk as Public Document No. 02-0114-39, and under which agreement the bureau will provide advertising and promotion services to the city during the year 2002, at a cost to the city not to exceed \$1,089,400; payable from Fund 0258, Agency 030, Org. 1460, Object 5441.

Resolution 02-0013, as amended, was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0049, by Councilor Hogg, amending Resolution No. 01-0749, which established the city's legislative priorities for the 2002 legislative session, to add securing funding for a visitors center at Bayfront Park as a primary legislative objective, was introduced for discussion.

Councilor Hogg moved to amend the resolution to add the following phrase to the end of the last paragraph: "and for changes to existing legislation to delay the requirement that the state administer and collect local sales taxes for the city of Duluth," which motion was seconded and unanimously carried.

Councilors expressed concerns over: what would happen to the existing Thompson Hill Information Center if this funding is appropriated; what would happen to the semi trucks that currently park for extended periods at Thompson Hill; if it is possible to have a multi-use facility at the Bayfront that would include a visitors center and that these centers are primarily for sleeping, emergencies, phones and washrooms and would not be appropriate at Bayfront.

Resolution 02-0049, as amended, was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the fifth paragraph on the first page of Resolution No. 01-0749, which was approved October 22, 2001, be amended to read as follows:

NOW, THEREFORE, BE IT RESOLVED, that the primary legislative objectives of the city of Duluth for the year 2002 are to secure state bond proceeds to complete the renovation of the Aerial Lift Bridge, to make infrastructure improvements at the Spirit Mountain recreation area, to secure funding for the planning and construction of a state visitors center at Bayfront Park, and to secure legislation to restore the statewide hazardous materials response program that the state has discontinued, including restoration of the regional haz-mat team that operated out of Duluth, and for changes to existing legislation to delay the requirement that the state administer and collect the local sales taxes for the city of Duluth.

Resolution 02-0049, as amended, was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Yeas: Councilors Atkins, Bergson, Hogg, Stauber, Stenberg, Stewart and President
Ness -- 7

Nays: Councilors Gilbert and Stover -- 2
Approved January 14, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

Neill Atkins (city councilor) for a term expiring April 27, 2005, replacing Lynn Fena.

Russ Stewart (city councilor) for a term expiring April 27, 2003, replacing Patty

Edwards.

Resolution 02-0011 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, the segment of the North Shore Scenic Drive running within St. Louis and Lake
counties between Canal Park in Duluth and the east side of Two Harbors is a major route of scenic
travel; and

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

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

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

WHEREAS, the route from Brighton Beach in Duluth to the east end of Two Harbors
secured designation as a Minnesota State Scenic Byway on October, 1997; and

WHEREAS, the byway was extended to Canal Park in October 2000; and

WHEREAS, Trunk Highway 61 from Two Harbors to Grand Portage received All American
Road designation in July 2000; and

WHEREAS, application is being made to the federal highway administration for extension
of the All American Road status to include the segment of the North Shore Scenic Drive from
Canal Park in Duluth to the east end of Two Harbors; and

WHEREAS, this designation is the highest available through the national scenic byways
program and will be conducive to effective marketing of the route as a tourist attraction and will
possibly contribute to obtaining special funding for enhancement projects within the corridor of the
highway.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports the effort of the
North Shore Scenic Drive committee to obtain the All American Road designation from the U.S.
department of transportation.

Resolution 02-0062 was unanimously adopted.

Approved January 14, 2002

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR STENBERG

01-046 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO A AND L DEVELOPMENT, INC., PIZZA LUCÉ, DULUTH TECHNOLOGY VILLAGE, 11 EAST SUPERIOR STREET FOR AWNINGS INTO AND OVER THE EASEMENT FOR THE RIGHT-OF-WAY OF EAST SUPERIOR STREET.

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

The ordinance failed unanimously (Public Document No. 02-0114-40).

- - -

The following entitled ordinances were read for the first time:

BY COUNCILOR ATKINS

02-002 - AN ORDINANCE AUTHORIZING ACQUISITION AND SALE OF CERTAIN PROPERTY IN DULUTH HEIGHTS TO THE HABITAT FOR HUMANITY, INC.

- - -

BY PRESIDENT NESS

02-001 - AN ORDINANCE CHANGING QUORUM REQUIREMENTS FOR THE DULUTH TREE COMMISSION; AMENDING SECTION 2-126 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The meeting was adjourned at 8:20 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 28, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart and President Ness -- 8

Absent: Councilor Stover -- 1

The minutes of the city council meetings held December 17, 2001, January 7 (4:15 p.m.) and January 7 (6:00 p.m.), 2002, were unanimously approved.

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0128-01 Allen Boben submitting further petition (total of ten signatures) to reclassify from R-2 to C-1 property in Nortons Steel Plant Division of Duluth. -- Assessor

02-0128-02 Minnesota department of transportation submitting correct exhibit for environmental assessment worksheet for proposed construction of a 1.15 mile segment of Minnesota Trunk Highway 53/Piedmont Avenue from south of Fourth Street to 0.25 miles north of Skyline Parkway (01-0870R). -- Received

02-0128-03 St. Louis County Board of Commissioners submitting certified copy of resolution appointing commissioners Fink and Kron, with Commissioner Fay as alternate, as St. Louis County's representatives to the Northwest Airlines tax increment financing district board (Duluth) for terms expiring December 31, 2002. -- Received

02-0128-13 Chinese Garden Restaurant submitting communication regarding payment of civic penalty in the matter of serving alcoholic beverages to minors (02-0083R). -- Received

02-0128-14 Jim Esson submitting communication regarding the proposed state hand gun legislation (02-0099R). -- Received

02-0128-04 Evensen Dodge, Inc., submitting presale analysis for February 7, 2002, sale of \$3,400,000 taxable G.O. airport improvement bonds, Series 2002A; \$345,000 G.O. steam utility revenue bonds, Series 2002B (AMT) and \$10,000,000 G.O. tax and aid anticipation certificates of indebtedness of 2002. -- Received

REPORTS OF OFFICERS

02-0128-05 Assessor submitting letter of sufficiency of petitions to construct watermain along Minnesota Avenue beginning at the intersection of Minnesota Avenue and Ninth Street to a point 190 feet north and low pressure sanitary sewer along Minnesota Avenue beginning at the intersection of Minnesota Avenue and Ninth Street to a point 155 feet north. -- Received

02-0128-06 Clerk submitting:

(a) Applications to Minnesota gambling control board for exemptions from lawful gambling licenses (raffles) from:

(1) Duluth Missabe and Iron Range Railway Veteran Employees Association on May 30, 2002;

(2) Minnesota Senior Federation - Northeast on May 22, 2002;

(3) St. Luke's Foundation on July 8, 2002;

(b) Alcohol, gambling and tobacco commission report, findings of fact, conclusions, recommendation, fact stipulation and transcript of January 8, 2002, hearing regarding the matter of the on sale wine and 3.2 beer licenses of Chinese of Duluth, Inc., d/b/a Chinese Garden (02-0083R). -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

02-0128-07 Community development and housing division manager submitting HRA housing rehabilitation report for November and December 2001. -- Received

02-0128-08 Engineering division submitting monthly project status report of January 1, 2002. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-0128-09 Board of zoning appeals minutes of December 18, 2001, meeting. -- Received

02-0128-10 Duluth airport authority: (a) Minutes of December 18, 2001, meeting; (b) Un-audited balance sheet of November 30, 2001. -- Received

02-0128-11 Housing and redevelopment authority annual audit report for the year ended September 30, 2001. -- Received

02-0128-12 Technical design advisory committee for DWMX-D minutes of: (a) February 20; (b) April 17; (c) May 15; (d) October 16, 2001, meetings. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

John Gordon expressed concern over too many new laws that are passed each year which force the citizens of the country to give up their rights and free choice.

- - -

KL Lewis voiced concern that the bars are trying to overturn the vote of the people on the no smoking ban; the city should work with the University of Minnesota - Duluth to consider using experimental poplar trees to help the polluted industrial sites; and supported the proposed extension of the Lakewalk.

- - -

Elijah stated the citizens of the country need to unite against pollution of all kinds including the pollution from cigarettes.

- - -

RESOLUTIONS TABLED

Councilor Hogg moved to remove Resolution 01-0874, approving the 2002 budget of the Lake Superior Center, and Resolution 01-0893, appropriating tourism tax fund balance, from the table, which motion was seconded and unanimously carried.

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

Peggy Marrin stated that any future projects from this point on should have books that are open to the public and that when people ask questions about a project they should not be labeled as anti-development.

Councilor Hogg reviewed that the Great Lakes Aquarium has unpaid construction bills and a number of legal costs generated by the overrun and start up costs along with the bond payment due by February 1. He continued by saying it does appear that the aquarium has responded to the reduced attendance by making adjustments in their operating budget and reviewing suggestions to make the aquarium even better.

Resolutions 01-0874 and 01-0893 were adopted as follows:

BY COUNCILOR HOGG:

WHEREAS, in June of 1998 the Great Lakes Aquarium operating and revenue participation agreement, City Contract No. 18364, was entered into between the city, Duluth economic development authority and the Lake Superior Center authority; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

WHEREAS, Section 6B of said contract provides that both the city of Duluth and the Duluth economic development authority shall individually approve of the Lake Superior Center budget each year the contract is in operation;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby approves of the Lake Superior Center budget for 2002.

Resolution 01-0874 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Hogg, Stauber, Stenberg, Stewart and President Ness -- 7

Nays: None -- 0

Absent: Councilor Stover -- 1

Abstention: Councilor Gilbert -- 1

Approved January 28, 2002

GARY L. DOTY, Mayor

BY COUNCILOR HOGG:

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

WHEREAS, the city desires to assist the Lake Superior Center authority in stabilizing their finances.

NOW, THEREFORE, BE IT RESOLVED, that \$219,000 be allocated to the debt service fund for the February 1, 2002, bond payment, this source coming from the reserve for capital improvement fund balance in the tourism tax fund (0258).

Resolution 01-0893 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Hogg, Stauber, Stenberg, Stewart and President Ness -- 7

Nays: None -- 0

Absent: Councilor Stover -- 1

Abstention: Councilor Gilbert -- 1

Approved January 28, 2002

GARY L. DOTY, Mayor

Councilor Stenberg moved to remove Resolution 01-0881, reversing, and Resolution 01-0882, affirming, respectively, the decision of the building appeal board to deny an appeal to allow a further extension of time on a condemnation for habitation order to correct housing code violations at 1117 North 46th Avenue East, Duluth, Minnesota, from the table, which motion was seconded and unanimously carried.

Resolution 01-0881 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, on September 19, 2001, the city building official issued an order condemning for habitation the premises located at 1117 North 46th Avenue East; and

WHEREAS, on September 26, 2001, the owner of said property, Roger F. Larson, appealed the building official's order to the building appeals board and requested additional time to bring the subject property into compliance with all required codes; and

WHEREAS, at its meeting of November 14, 2001, the building appeals board denied Mr. Larson's appeal; and

WHEREAS, Roger F. Larson has appealed to the city council and the city council has considered this appeal and Mr. Larson has presented appropriate evidence that he has the means

and will to correct such noncompliance within the time frames set forth below or that he will cause plans to be presented, permits obtained and required work performed to bring the dwelling into compliance with the codes and ordinances regulating buildings within the city of Duluth; and

WHEREAS, the city council has determined that the required findings for delaying the effective date of the condemnation for habitation order of September 19, 2001, and allowing an extension of time for repairing the dwelling and removing abandoned property and solid waste from the premises can be made in this case.

NOW, THEREFORE, BE IT RESOLVED, that the city council finds that it is reasonably possible and practical to correct all code deficiencies giving rise to the building official's order condemning the premises for habitation and to bring the building located ad 1117 North 46th Avenue East into full compliance with such codes within the timeframe(s) set forth below.

FURTHER RESOLVED, that the building official's order condemning the premises located at 1117 North 46th Avenue East for habitation and the building appeal board's decision of November 14, 2001, is hereby modified to be effective 90 days after the effective date of this resolution to allow the appellant until the aforesaid date to bring the property into full compliance with all such codes.

FURTHER RESOLVED, that in the event that extenuating circumstances prevent appellant from so bringing the property into full compliance within said time frame through no fault of appellant, the council may further modify the effective date of said condemnation order.

FURTHER RESOLVED, that if the property is brought into compliance with all applicable codes within the time frames set forth in this resolution and as the same may be amended, the appeal of appellant shall be deemed to have been granted and the order condemning the subject property for habitation shall be deemed to have been rescinded, but if the property is not brought into compliance with all applicable codes within the time frames set forth in this resolution and as the same may be amended, the appeal of appellant shall be deemed to have been denied.

Resolution 01-0881 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

Resolution 01-0882 failed upon a unanimous vote (Public Document No. 02-0128-15).

- - -

At this time, 7:45 p.m., the public hearing regarding Piedmont Avenue reconstruction was called to order.

Roberta Dwyer, Minnesota department of transportation (Mn/DOT), reviewed that this public hearing is required by law and the resolution is approving the final layout and project for Piedmont Avenue. She reviewed that this is a \$22 million project and the bids must be let on this project by February 2003 or the funding will be lost. Ms. Dwyer stated that the final design plans will be completed this summer, construction will begin in April 2003 and be completed in the summer of 2005. She continued by saying that Mn/DOT has been proactive with the community by having five public meetings and that Mn/DOT feels the project should be ready to go on time.

On behalf of the council, President Ness thanked Ms. Dwyer and Mn/DOT's work on addressing some difficult concerns of residents and doing a great job on this process.

No one else appeared who wished to be heard and the public hearing closed at 7:55 p.m.

- - -

Councilor Stenberg moved to remove Resolution 01-0870, approving the final layout and project report for the improvement of a part of Trunk Highway Number 53 renumbered as Trunk Highway 106 (Piedmont Avenue) within the corporate limits of the city of Duluth from south of

Fourth Street to 0.25 miles north of Skyline Parkway, by Councilor Stewart (introduced by Councilor Eckenberg), from the table, which motion was seconded and unanimously carried.

Resolution 01-0870 was adopted as follows:

BY COUNCILOR STEWART (introduced by Councilor Eckenberg):

WHEREAS, the commissioner of the department of transportation has prepared a final layout and project report for the improvement of Trunk Highway 53 renumbered as Trunk Highway No. 106 (Piedmont Avenue) within the corporate limits of the city of Duluth, from south of Fourth Street to 0.25 miles north of Skyline Parkway, and seeks the approval thereof; and

WHEREAS, said final layout and project report are on file in the office of the department of transportation, St. Paul, Minnesota, being marked, labeled and identified as S.P. 6915-123 IRC T.H. 53 (T19163-Phase P) Layout 2B.

NOW, THEREFORE, BE IT RESOLVED, that said final layout and project report for the improvement of said trunk highway within the corporate limits of Duluth are hereby approved.

RESOLVED FURTHER, that the city clerk is directed to send a certified copy of this resolution to the Minnesota department of transportation district engineer.

Resolution 01-0870 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

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

BY COUNCILOR ATKINS:

RESOLVED, that the Duluth News Tribune be and hereby is designated the official newspaper of the city of Duluth for the year 2002, and the contract for publishing the proceedings of the city council of the city of Duluth, hereby is awarded to the Duluth News Tribune on its bid for said publications of \$2.14 per inch, these being the legal rates for the state of Minnesota. The estimated total annual cost \$25,000. The billing is to be on the inch rate, terms: net 30 and payable out of various funds, depts./agencies, organizations and objects.

Resolution 02-0067 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Gateway Companies, Inc., and En Pointe Technologies Sales, Inc., be and hereby are awarded a contract for furnishing and delivering miscellaneous microcomputer hardware, ordered as needed during a 12 month period in accordance with specifications and referencing state of Minnesota contracts #425039 and #425553 pricing for the various city departments/divisions, terms net 30, FOB destination, payable out of various funds, depts./agencies, organizations, objects; not to exceed the year 2002 budget allocation for computer equipment.

Resolution 02-0076 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Johnson Insurance Consultants for professional consulting services relating to city's group health insurance program during the year 2002, which agreement shall be substantially in the form of Public Document No. 02-0128-16 on file in the office of the city clerk, at a cost to the city of not to exceed \$13,200, which shall be payable from the group health fund administration account.

Resolution 02-0087 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Hinckley Chevrolet be and hereby is awarded a contract for furnishing and delivering three marked patrol vehicles for the police department in accordance with specifications on its low specification bid of \$79,301.64, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization RS02, Object V204.

Resolution 02-0092 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

DULUTH STATE CONVENTION CENTER ADMINISTRATIVE BOARD

James W. Brown for a term expiring June 30, 2004, replacing Vernon Amundson.

Marsha Signorelli for a term expiring June 30, 2004, replacing Riki McManus.

Resolution 02-0012 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

HUMAN RIGHTS COMMISSION - Sally Spellerberg for a term expiring March 1, 2004, replacing Margaret Thomas.

Resolution 02-0030 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

COMMISSION ON DISABILITIES - Valerie LaPorte and Kim Ochocki for terms expiring November 1, 2004.

Resolution 02-0060 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

- - -

BY COUNCILOR STEWART:

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

PLANNING COMMISSION - Thomas Krzewinski for a term expiring December 31, 2003, replacing S.C. Welles who resigned.

Resolution 02-0064 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

DULUTH HOUSING COMMISSION

Pam Johnson (low income housing) for a term expiring November 8, 2004, replacing Frank Jewell.

Russ Stewart (councilor) for a term expiring November 8, 2004.

Resolution 02-0088 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Erling R. Hansen Contractor be and hereby is awarded a contract for Sacred Heart Music Center modifications for the city architects division in accordance with specifications on its low specification bid of \$54,800, terms net 30, FOB job site, \$40,400 payable out of Community Development Fund 0262, Dept./Agency 624, Object 6407 and \$14,400 payable out of Community Development Fund 0262, Balance Sheet Account 2020.

Resolution 02-0066 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2001 CDBG accounts; and

WHEREAS, the community development committee (CD committee) for the CDBG program recommends funding projects 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 262-2001 HUD-funded community development accounts as set forth below:

2001 CDBG transfers				
Project #	Project	Budget amount	New amount	Amount of increase or decrease
6407	Sacred Heart Music Center Renovation	\$35,400	\$40,400	\$5,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

6437	Contingency	\$12,145	\$ 7,145	(\$5,000)
------	-------------	----------	----------	-----------

Resolution 02-0071 was unanimously adopted.
 Approved January 28, 2002
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Greater Downtown Council (GDC) under which the GDC will conduct certain activities in the downtown area, substantially in the form of that on file in the office of the city clerk as Public Document No. 02-0128-17, at a cost to the city of \$87,194, payable from General Fund 0100-015-2030-SP05.

Resolution 02-0063 was unanimously adopted.
 Approved January 28, 2002
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a sublease agreement, in the form and containing substantially the terms set out in Public Document No. 02-0128-18 on file with the city clerk (final adjustments for interest rates, construction adjustments and similar matters being contemplated) between city of Duluth and Cirrus Design Corporation, for the letting of space in the aviation business incubator facility being constructed at the Duluth Airport, for a term ending 2022.

Resolution 02-0077 was unanimously adopted.
 Approved January 28, 2002
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement an assignment and agreement in substantially the form and containing the terms of Public Document No. 02-0128-19 on file with the clerk, by which instrument the city accepts the term of a lease of land at the Duluth airport, which land will be used for the aviation business incubator project.

Resolution 02-0082 was unanimously adopted.
 Approved January 28, 2002
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

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. 02-0128-21, with Community GIS Services, Inc., for the Duluth public parcel delineation and preservation project, in an amount not to exceed \$18,780, payable from Fund 0100, Agency 020, Org. 1202, Object 5319, said agreement contingent upon receipt by the city of a grant in the amount of \$13,543 from the state of Minnesota through its department of natural resources.

Resolution 02-0084 was unanimously adopted.
 Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, the city of Duluth has requested the vacation of that portion of Water Street legally described as:

that part of Water Street right-of-way, lying southwesterly of the following described line: beginning at a point in the Water Street right-of-way, 20.07 feet northeasterly of the extension of the common line between Lots 26 and 27, Water Street, Fond Du Lac, Duluth; thence southeasterly 240.19 feet, to a point in the Water Street right-of-way, 29.74 feet northeasterly of the extension of the common line between Lots 32 and 33, Water Street, thereby terminating; and

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

WHEREAS, the city planning commission approved unanimously the vacation proposal at its June 27, 2001, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of a portion of Water Street described above, and as more particularly described on Public Document No. 02-0128-20.

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

Resolution 02-0085 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to Contract No. 18638, substantially in the form of that on file in the office of the city clerk as Public Document No. 02-0128-22, with the Natural Resources Research Institute of the University of Minnesota (NRRI) related to the city's natural resources inventory project, which amendment extends the term of the agreement to December 31, 2002, increases the scope of services to include a Duluth forest inventory project, and increases the amount payable under the agreement by an additional \$21,054, for a total contract amount not to exceed \$84,352, payable from Fund 0100, Ag. 020, Org. 1202, Obj. 5319.

Resolution 02-0091 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that the city is hereby authorized to participate in the joint property tax advisory committee during 2002, including paying for the city's share of the consultant agreement with Jeff Van Wychen at a cost to the city of \$10,500, which shall be payable from the city council's budget, Fund 100, Agency 010, Organization 1101, Object 5319.

Resolution 02-0048 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

- - -

BY PRESIDENT NESS:

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. L8505 over Amity Creek on Seven Bridges Road, S.P. 118-080-19; and

WHEREAS, the grant has been approved and the amount of the grant has been determined to be \$45,502.80.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby accept said grant and affirms that any rehabilitation costs that qualify for Minnesota state transportation funds in excess of the grant will be appropriated from funds available to the city of Duluth, and that any grant monies appropriated for the 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 hereunder shall be deposited into the Permanent Improvement Fund 0411, Agency 035, Org. 2110.

Resolution 02-0061 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement between the city of Duluth and the Duluth, Missabe and Iron Range Railway Company for the plowing and sanding of the Oliver Bridge, said agreement filed as Public Document No. 02-0128-23, for a consideration paid to the city of \$2,312.64 per year.

Resolution 02-0058 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Stout Mechanical, Inc., be and hereby is awarded a contract for I&I separation/discharge to disconnect six houses at Ninth Street Alley near Fourth Avenue East for the utility operations division in accordance with specifications on its low specification bid of \$27,420 less \$2,000 discount for a total bid of \$25,420, terms net 30, FOB job site, \$12,710 payable out of Sewer Fund 0530, Dept./Agency 500, Organization 1970, Object 5482 and \$12,710 payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 02-0065 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth has developed a design plan for a watershed environmental program; and

WHEREAS, the city desires to hire a service provider for planning, supervision, curricula development and class instruction services required for the watershed education program funded by the Minnesota Lake Superior coastal grant; and

WHEREAS, University of Minnesota/UMD, Center for Environmental Education, has submitted a proposal for these services in connection with this project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with University of Minnesota/UMD, Center for Environmental Education, to provide the city with such services.

BE IT FURTHER RESOLVED, that the cost of said educational services, estimated at \$18,725, will be payable from the Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1915, Object 5439.

Resolution 02-0072 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement between the city of Duluth and the United States department of the army for the construction of a watermain to serve the Fond du Lac neighborhood in Duluth; said agreement filed as Public Document No. 02-0128-24. The department of the army's contribution in this project, which is estimated to be \$500,000, shall be deposited into Fund 0510, Balance Sheet 2735.

Resolution 02-0078 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

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. L6114 over Chester Creek on East Ninth Street, S.P. 118-143-12; and

WHEREAS, the grant has been approved and the amount of the grant has been determined to be \$227,225.65.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby accept said grant and affirms that any rehabilitation costs that qualify for Minnesota state transportation funds in excess of the grant will be appropriated from funds available to the city of Duluth, and that any grant monies appropriated for the 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 hereunder shall be deposited into the Permanent Improvement Fund 0411, Agency 035, Org. 2133.

Resolution 02-0080 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to enter into Mn/DOT Agreement No. 82780, on file in the city clerk's office as Public Document No. 02-0128-25, with the state of Minnesota, department of transportation, for the following purposes:

to provide for payment by the city to the state of the city's share of the costs of the watermain, sanitary sewer, lighting and concrete walk construction and other associated construction to be performed upon, along and adjacent to Trunk Highway No. 194 from Superior Street to Blackman Avenue within the corporate city limits under State Project No. 6933-77 (T.H. 194=106).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

RESOLVED FURTHER, that the city's share, which is estimated at \$215,955.62, shall be paid as follows: \$135,574 for sanitary sewers from Fund 0531, Obj. 5532; \$65,131.40 for storm sewers from Fund 0535, Obj. 5533, Org. 1905; \$1,412 for water facilities from Fund 0511, Obj. 5532; and \$13,838.22 for lighting and sidewalk from P.I. Fund 0411, Agency 035, Obj. 5441, Org. 2118.

Resolution 02-0081 was unanimously adopted.
Approved January 28, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Northern Energetics for professional services relating to energy audits of 650 single and multi family homes per year, for years 2002, 2003 and 2004, which agreement is on file in the office of the city clerk as Public Document No. 02-0128-26, payment not to exceed \$107,253, payable from the Home Energy Conservation Fund 0555, Dept. 500, Object 5441.

Resolution 02-0090 was unanimously adopted.
Approved January 28, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to install traffic signals, and
WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for the design of traffic signals at 27th Avenue West for Michigan Street and Superior Street intersections, and

WHEREAS, Short Elliott 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 Elliott Hendrickson, Inc., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$11,000, will be payable from the Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2228, Object 5530; to be reimbursed from the municipal state aid (MSA).

Resolution 02-0094 was unanimously adopted.
Approved January 28, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that in accordance with the provisions of Section 33-84 of the Duluth City Code, 1959, as amended, the following time limit parking zone is hereby amended from a two hour time limit parking May 15 to October 15 of each year to a two hour time limit parking year round:
west side of Canal Park Drive from Buchanan Street to Railroad Street;
both sides of Lake Avenue from the Aerial Bridge to Sutphin Street.

Resolution 02-0055 was unanimously adopted.
Approved January 28, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BE IT RESOLVED, that in accordance with the provisions of Section 33-108 of the Duluth City Code, 1959, as amended, the following parking meter zones are hereby established:
on both sides of Tenth Avenue East from First Street to Second Street; proposed rate to be: one quarter for one hour with a two hour limit.

Resolution 02-0057 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are authorized to enter into a grant agreement and accept a grant of up to \$94,046 from the U.S. department of justice, national institute of justice, to participate in the corrections and law enforcement family support program for the period of October 1, 2001, through December 31, 2002; said grant agreement on file in the city clerk's office as Public Document No. 02-0128-27.

RESOLVED FURTHER, that grant monies received pursuant to this grant shall be deposited in Police Grant Program Fund 0215, Agency 200, Org. 2465.

Resolution 02-0079 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

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 \$17,700, from Capital Fund 450, Agency 015, Org. 2000, Obj. C006, for providing certain engineering services to the city of Duluth in connection with Lakewalk storm damage reconstruction, 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. 02-0128-28.

Resolution 02-0073 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

WHEREAS, upon recommendation of the Minnesota amateur sports commission, the Minnesota department of children, families and learning provides grants to assist political subdivisions of the state of Minnesota for the development of soccer facilities; and

WHEREAS, the city of Duluth has constructed a full size soccer field at the base of the Spirit Mountain recreation area.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized to accept a grant of \$7,000 from the Minnesota department of children, families and learning to complete the soccer field at the base of the Spirit Mountain recreation area.

RESOLVED FURTHER, that the proper city officers are authorized to execute any and all agreements (Public Document No. 02-0128-29) to implement said grant and that said grant funds shall be deposited in Capital Improvement Fund 0450, Agency 015, Org. 2002.

Resolution 02-0074 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BY COUNCILOR STAUBER:

RESOLVED, that the city of Duluth hereby accepts a grant in the amount of \$500 from the National Endowment for the Humanities to fund a speaking event regarding John Steinbeck, said grant to be deposited into Fund 0100, Agency 300, Org. 1704.

FURTHER RESOLVED, that the director of the Duluth public library is 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. 02-0128-30, with the National Endowment for the Humanities related to the above referenced speaking event.

Resolution 02-0075 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that Resolution 01-0106 to Animal Spectrum, Inc., for furnishing zoo animal foods for feline, omnivore, polar bear and primate diets for the Lake Superior Zoo, be amended to increase the amount by \$11,827.80 for a new total of \$27,827.80, payable out of General Fund 100, Dept./Agency 400, Organization 1814, Object 5245.

Resolution 02-0093 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 02-0083, by Councilor Atkins, in the matter of the on sale wine license and on sale nonintoxicating malt liquor license of Chinese of Duluth, Inc. (Chinese Garden), 231 East Superior Street, was introduced for discussion.

Councilor Atkins reviewed this was a result of a sting operation by the police department and the fine seems too stiff for a first time offense selling 3.2 beer.

Councilors Stenberg, Bergson and Gilbert stated that while there is sympathy for this business, there needs to be some accountability by the liquor businesses, and there needs to be a message sent to the business community saying the city is tough on liquor laws. They also stated that it would be arbitrary for the council to impose fines to some businesses and not others.

Councilor Hogg stated that this establishment does not sell a lot of alcohol and this fine is too severe for their business versus a bigger operation.

Councilor Stewart stated that a process has been set up by the alcohol, gambling and tobacco board, and that if there is a change to be made, it should be a change across the board and not on a case-by-case basis. He also stated that the council should hear from both the licensee and police department before deciding on whether to change the fine amount.

Councilor Atkins moved to amend the penalty from "\$500" to "\$250," which motion was seconded and failed upon the following vote:

Yeas: Councilors Atkins and Hogg -- 2

Nays: Councilors Bergson, Gilbert, Stauber, Stenberg, Stewart and President Ness -- 6

Absent: Councilor Stover -- 1

Resolution 02-0083 was adopted as follows:

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby makes the finding of facts and conclusions and adopts the recommendations set forth in Public Document No. 02-0128-06(b) regarding any suspension, revocation and/or civil penalty relating to the on sale

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

wine license and on sale nonintoxicating malt liquor license of Chinese of Duluth, Inc. (Chinese Garden), 231 East Superior Street.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation, and/or civil penalty is as follows: that Chinese of Duluth, Inc. (Chinese Garden), 231 East Superior Street pay a civil penalty of \$500.

Resolution 02-0083 was adopted upon the following vote:

Yeas: Councilors Bergson, Gilbert, Stauber, Stenberg, Stewart and President Ness -- 6

Nays: Councilors Atkins and Hogg -- 2

Absent: Councilor Stover -- 1

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0068, authorizing an agreement with Jader Enterprises, Inc., for professional services in an amount not to exceed \$68,000, and Resolution 02-0069, authorizing an agreement with Brian Fitzgerald for professional services in an amount not to exceed \$56,000, by Councilor Stenberg, were introduced for discussion.

Councilor Stenberg moved to table both resolutions, which motion was seconded and unanimously carried.

- - -

Resolution 02-0086, by Councilor Stenberg, authorizing an agreement with the state of Minnesota relating to a state grant in the amount of \$500,000 in support of the Duluth Technology Village, was introduced for discussion.

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

- - -

Resolution 02-0089, by Councilor Stenberg, amending Agreement No. 17911 with GDC for skywalk security services extending the term and increasing the amount payable by \$58,000, was introduced for discussion.

Councilor Stewart stated that the word needs to be sent forward that the city will not support this payment arrangement for security in the year 2003, but if this money is not approved, there would not be any security in that part of the skywalk this year.

Administrative Assistant Winson stated that he will send a letter to the Greater Downtown Council, the Radisson and other business affected by this action indicating that, for the year 2003, there is no intent by the city council and administration to fund the security, giving these entities 11 months to come up with a plan on how to fund this next year.

President Ness moved to amend the resolution be deleting "\$58,000" and inserting "\$29,000," which motion was seconded for discussion.

President Ness stated that the \$29,000 would be paying for the services from 2001, but not paying for the security for 2002, and while he agreed with the purpose of the resolution in principal, the Radisson is a large corporation who should think security is an important issue for their guests and should be able to spend \$29,000 for security.

Councilor Hogg stated that there are too many people who will be in Duluth for events or conventions who have expectations that the skywalks will be open at night and if the council makes a change on short notice other problems could occur.

Councilor Stenberg agreed that security in the Downtown area is too important an issue for the council not to support it now and that security throughout the whole skywalk system is an issue

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

that the Downtown committee should be working on during the year.

President Ness' amendment failed as follows:

Yeas: President Ness -- 1

Nays: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg and Stewart -- 7

Absent: Councilor Stover -- 1

Resolution 02-0089 was adopted as follows:

BY COUNCILOR STENBERG:

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. 02-0128-31, with the Greater Downtown Council for the provision of skywalk security services extending the term of the agreement to run through December 31, 2002, and increasing the amount payable thereunder by \$58,000, \$28,958.69 of which, payable for services in the years 2001 and 2002, shall be payable from General Fund 0100, Agency 015, Org. 2500, facilities management division, and \$29,041.31 of which, payable for services in the year 2002, shall be reimbursed from the Tourism Tax Fund 0258.

FURTHER RESOLVED, that the tourism tax fund allocation to the general fund for 2002 shall be increased by \$29,041 from undesignated fund balance in the tourism tax fund.

Resolution 02-0089 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg and Stewart -- 7

Nays: President Ness -- 1

Absent: Councilor Stover -- 1

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0095, by Councilor Stenberg, authorizing 20 year lease to the Minnesota DNR of property adjacent to Congdon boulevard for the McQuade road safe harbor project, was introduced for discussion.

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

- - -

BY PRESIDENT NESS:

WHEREAS, the Mentor Duluth, Men as Peacemakers and Kinship of Douglas County mentoring programs are serving more than 1,000 youths in the city of Duluth and the city of Superior by providing these children with positive adult role models; and

WHEREAS, the three mentoring agencies continue to serve our communities by providing and supporting each other in school and community based programs by fostering one-to-one mentoring relationships with children; and

WHEREAS, Mentor Duluth, Men as Peacemakers and Kinship of Douglas County are dedicated to changing our future one child at a time; and

WHEREAS, these three mentoring programs work together in building bridges between their programs to connect the youth, adults and the community they serve; and

WHEREAS, mentors involved in the programs volunteer their time striving to make a difference in children's lives by being resources, guides, good listeners and most important of all friends.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council recognizes that January 2002 is the Twin Ports mentoring month in connection with national mentoring month and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

expresses its appreciation for the community enhancing efforts of the Mentor Duluth, Men as Peacemakers and Kinship of Douglas County programs.

Resolution 02-0059 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that pursuant to paragraph 5 of the operating and revenue participation agreement between the city of Duluth, Duluth economic development authority, Lake Superior Center and the Lake Superior Center authority approved June 8, 1998, in Resolution No. 98-0545, the Duluth City Council hereby selects Councilor Russ Stewart to serve on the Lake Superior Center board of directors effective February 1, 2002.

Resolution 02-0100 was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0099, by President Ness, requesting the Minnesota State Senate not to take any substantive legislative action until the newly elected state senator from the seventh district is sworn in on January 30, 2002, was introduced for discussion.

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

Gail Schoenfelder, Joan Peterson, Mary Streufert, Ferris Keeling, Dean Grace, Gay Trachsel, Jim Fetzer, Don Streufert voiced support of the resolution so that the legislature would not vote on legislation allowing a person to carry a hidden hand gun; carrying a hidden gun does not promote safety in the streets; the concealed gun law will complicate law enforcement; the integrity of the government will be an issue if the legislature moves rapidly on this, and Duluth needs representation from the seventh senate district on all voting issues.

President Ness urged councilors to support the resolution to protect the vote of the seventh senate district.

Councilor Bergson moved to amend the last paragraph of the resolution by inserting the phrase "including taking action on Senate File 1395" after the phrase "voting on any legislation," which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stenberg, Stewart and President Ness -- 7

Nays: Councilor Stauber -- 1

Absent: Councilor Stover -- 1

Resolution 02-0099, as amended, was adopted as follows:

BY PRESIDENT NESS:

WHEREAS, a special election is being held in the seventh district of the Minnesota senate on January 29, 2002, to elect a replacement for the late Senator Sam Solon; and

WHEREAS, the newly elected senator representing the Seventh District will not be sworn in until January 30, 2002; and

WHEREAS, the state legislature's 2002 session begins on January 29, 2002; and

WHEREAS, any substantive nonprocedural legislative action taken on January 29, 2002, would leave the majority of Duluthians without legislative representation in the state senate; and

WHEREAS, the disenfranchisement of Duluth citizens by senate vote on any legislation on January 29, 2002, is neither fair or acceptable; and

WHEREAS, a delay of one or two days in voting on legislation will not significantly impact the legislative session;

NOW, THEREFORE, BE IT RESOLVED, the Duluth City Council requests that the state senate refrain from voting on any legislation, including taking action on Senate File 1395, until the citizens of the senate's Seventh District have representation in the state senate.

Resolution 02-0099, as amended, was unanimously adopted.

Approved January 28, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0054, by Councilor Stewart, ordering the construction of sanitary sewer main along North 14th Avenue East beginning at the intersection of North 14th Avenue East and Tenth Street and extending approximately 220 feet northerly (City Job No. 0198SN) at an estimated cost of \$52,800, was introduced for discussion.

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

- - -

INTRODUCTION AND CONSIDERATIONS OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR STOVER

02-003 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY AT 38TH AVENUE EAST AND THIRD STREET TO ROBERT AND CYNTHIA BACKSTROM.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STEWART (introduced by Councilor Atkins)

02-002 (9522) - AN ORDINANCE AUTHORIZING ACQUISITION AND SALE OF CERTAIN PROPERTY IN DULUTH HEIGHTS TO THE HABITAT FOR HUMANITY, INC.

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

- - -

BY COUNCILOR STAUBER (introduced by President Ness)

02-001 (9523) - AN ORDINANCE CHANGING QUORUM REQUIREMENTS FOR THE DULUTH TREE COMMISSION; AMENDING SECTION 2-126 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

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

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

- - -

ORDINANCE NO. 9522

BY COUNCILOR STEWART (introduced by Councilor Atkins):

AN ORDINANCE AUTHORIZING ACQUISITION AND SALE OF
CERTAIN PROPERTY IN DULUTH HEIGHTS TO THE HABITAT
FOR HUMANITY, INC.

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Section 1. That the proper city officials are hereby authorized to enter into a development agreement, a copy of which is on file in the office of the city clerk as Public Document No. 02-0128-32, with Habitat for Humanities, Inc., pursuant to which the city will acquire five tax forfeit lots from the state of Minnesota through St. Louis County and thereafter convey by quit claim deed that property and an adjacent city owned lot, all of which property in St. Louis County, Minnesota, is described below, to said corporation who will develop the property for low and moderate income and to execute all documents necessary with regard to said conveyance:

Lots 5, 6, 7, 8, 9 and 10, Block 25, Duluth Heights, Sixth Division.

Section 2. This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 10, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart and President Ness -- 8

Nays: None -- 0

Absent: Councilor Stover -- 1

Passed January 28, 2002
Approved January 28, 2002
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9523

BY COUNCILOR STAUBER (introduced by President Ness):

AN ORDINANCE CHANGING QUORUM REQUIREMENTS FOR THE
DULUTH TREE COMMISSION; AMENDING SECTION 2-126 OF
THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 2-126 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 2-126. Adoption of rules and regulations; election of officers; quorum.

Within 20 days after all of the original members have been appointed, the commission shall meet and organize and adopt rules and regulations for the conduct of its business that are not inconsistent with the terms of this Article. The commissioners shall elect from among their membership a chairperson and a vice chairperson. At such initial meeting and at all subsequent meetings of the commission, a majority of the voting members actually appointed and serving at the time of the meeting shall constitute a quorum for the transaction of business.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 10, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart and President Ness -- 8

Nays: None -- 0

Absent: Councilor Stover -- 1

Passed January 28, 2002
Approved January 28, 2002

ATTEST:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

JEFFREY J. COX, City Clerk

GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, February, 7, 2002, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Hogg, Stauber, Stewart, Stover and President Ness -- 7

Absent: Councilors Bergson and Stenberg -- 2

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0207-01 Evensen Dodge, Inc., submitting: (a) Bid results; (b) Official statement regarding \$3,400,000 G.O. airport improvement bonds, Series 2002A, G.O. \$345,000 steam utility revenue bonds, Series 2002B (AMT) and \$10,000,000 G.O. tax and aid anticipation certificates of indebtedness of 2002. -- Received

- - -

MOTIONS AND RESOLUTIONS

Resolution 02-0096, providing for the issuance, sale and delivery of \$10,000,000 general obligation tax and aid anticipation certificates of indebtedness of 2002 of the city of Duluth, Minnesota, and prescribing the terms thereof; creating a debt service fund therefor; and awarding the sale thereof; Resolution 02-0097, providing for the issuance, sale and delivery of \$345,000 general obligation steam utility revenue bonds, Series 2002B; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof; and Resolution 02-0098, providing for the issuance, sale and delivery of \$3,400,000 taxable general obligation airport improvement bonds, Series 2002A, 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 from a speaker on the resolutions.

Katherine Kardell, representing Evensen Dodge, Inc., financial consultants, reviewed the bid results.

- - -

At this time, President Ness called to order the public hearing regarding the \$345,000 general obligation steam utility revenue bonds, Series 2002B.

No one appeared who wished to be heard and the public hearing was closed.

- - -

Resolutions 02-0096, 02-0097 and 02-0098 were 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. Purpose and Authorization.

1.01 Pursuant to authority contained in Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 475, the City is authorized to issue and sell general obligation tax and aid anticipation certificates of indebtedness in anticipation of collection of taxes and state aids. The City Council has, by Resolution No. 02-0040, adopted January 14, 2002, authorized the issuance and provided for the sale of \$10,000,000 General Obligation Tax and Aid Anticipation Certificates of Indebtedness of 2002 (the "Certificates") in anticipation of collection of taxes levied in the year 2001 for collection during the year 2002 and state aids receivable in 2002 for the general fund of the City (the "General Fund"), which is necessary for timely payment of

anticipated expenditures from the General Fund.

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

Section 2. Pursuant to such solicitation for bids for the sale of the Certificates, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Wells Fargo Brokerage Services, LLC of Minneapolis, Minnesota (the "Purchaser"), to purchase the Certificates at a cash price of \$10,033,500.00, plus accrued interest on the total principal amount from February 21, 2002, 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 4. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Certificates in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

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

Section 4. The Certificates to be issued hereunder shall be dated February 21, 2002, 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, 2002 (the "Maturity Date"). The Certificates shall not be subject to redemption prior to the Maturity Date. The Certificates shall bear interest at the rate of 2.00 percent per annum. Interest on the Certificates shall be payable on the Maturity Date. Interest shall be computed on the basis of a 365-day year. The Bond Registrar designated below shall make the interest payment with respect to the Certificates by check or draft mailed to the registered owners of the Certificates shown on the bond registration records maintained by the Bond Registrar at the close of business on December 16, 2002, whether or not a business day, at such owners' addresses shown on such bond registration records. Principal of each Certificate shall be payable in accordance with and on presentation and surrender of the Certificate to the Bond Registrar.

Section 5. The City Council hereby appoints Wells Fargo Bank 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"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk. No Certificate shall be valid or obligatory for any purpose unless or until the Bond Registrar's authentication certificate on such Certificate, substantially as set forth in Section 13 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Certificates need not be signed by the same representative. The executed authentication certificate on each Certificate shall be conclusive evidence that it has been authenticated and delivered under this resolution.

Section 6. A. In order to make the Certificates eligible for the services provided by

The Depository Trust Company, New York, New York ("DTC"), the City has previously agreed to the applicable provisions set forth in the Blanket Issuer Letter of Representations which has been executed by the City and DTC (the "Representation Letter").

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

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

Section 7. The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Certificates and the registration of transfers of the Certificates entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar that may be appointed by the City Council. Upon surrender for transfer of any Certificate at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this resolution, and deliver, in the names(s) of the designated transferee(s), one or more new certificates of a like aggregate principal amount, as requested by the transferor.

Section 8. Each Certificate delivered upon transfer of or in exchange for or in lieu of any other Certificate shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Certificate. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Certificates during the 15 days next preceding the Maturity Date.

Section 9. The City and the Bond Registrar may treat the person in whose name any Certificate is registered as the owner of such Certificate for the purpose of receiving payment of principal of and interest on such Certificate and for all other purposes whatsoever, whether or not such Certificate be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

Section 10. The principal of and interest on the Certificates shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

Section 11. Delivery of the Certificates and payment of the purchase price shall be made at a place mutually satisfactory to the City and the Purchaser. Executed Certificates shall be furnished by the City without cost to the Purchaser. The Certificates, when prepared in accordance with this resolution and executed, shall be delivered by or under the direction of the city treasurer to the Purchaser thereof upon receipt of the purchase price plus accrued interest.

Section 12. The Certificates shall be prepared for execution in accordance with the form herein approved and shall be signed by the manual 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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 2002

R-1 \$10,000,000

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	December 31, 2002	February 21, 2002	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: TEN 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 Wells Fargo 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 16, 2002, 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

This Certificate is issued by the City in the aggregate amount of \$10,000,000, 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 7, 2002 (the "Resolution").

It is hereby certified and recited that a sum of \$33,863,600 was the amount (i) embraced in the tax levies for the general fund (the "Fund") of the City levied in the year 2001 for collection during the year 2002, and (ii) the estimated amount of state aids receivable by the City for the Fund in the year 2002; and that none of said amounts have at this time been collected and credited to the City's Fund; that heretofore no tax or aid anticipation certificates have been issued against said tax levies or state aids for such Fund; and that this Certificate is issued in anticipation of collection of said taxes and state aids.

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

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

IT IS FURTHER CERTIFIED AND RECITED that all acts and conditions required by the Constitution and laws of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Certificate in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

manner as so required; and this Certificate, together with all other debts of the City outstanding on the date hereof and the date of its actual issuance and delivery, does not exceed any constitutional or statutory limitation of indebtedness; that all taxable property within the boundaries of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount.

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

IN WITNESS WHEREOF, City of Duluth, by its City Council, has caused this Certificate to be executed in its name by the signatures of the mayor and the city clerk; and the City has caused this Certificate to be dated the 21st day of February, 2002.

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.

WELLS FARGO 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 2002, 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 Wells Fargo 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 Wells Fargo 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>
2/21/02	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

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

(Name and Address of Assignee)

Social Security or other
Identifying Number of
Assignee

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

Dated: _____.

NOTICE: The signature of this assignment must correspond with the name of

the registered owner as it appears upon the face of the within Certificate in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

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

Section 14. A. The treasurer shall credit \$10,000,000, less amounts used to pay a part of the interest cost of the Certificates as allowed by Minnesota Statutes, Section 475.56, from the proceeds of the sale of the Certificates to the General Fund maintained under Section 54 of the City Charter. A special account is hereby created in the debt service fund of the City (the "Debt Service Account"), to be used solely for the payment of interest on and the principal of the Certificates when due. The treasurer shall credit to the Debt Service Account all proceeds of the Certificates in excess of \$10,000,000, 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 levied \$300,000, pursuant to Section 3 of Ordinance No. 9521 (the "Certificates Interest Levy"), to be utilized in part to pay the interest on the Certificates. The City Council covenants and agrees that it will deposit into the Debt Service Account, as received, all of the Certificates Interest Levy up to 100% of the amount necessary to pay the interest on the Certificates. The City Council hereby certifies that the General Fund Taxes are \$4,228,400, and based on notices from the Minnesota Department of Revenue, the State Aids are reasonably expected to be \$29,635,200.

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. 9521, adopted by the City Council on December 17, 2001 (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 2002 (the "General Fund State Aids") (collectively the General Fund Taxes and the General Fund State Aids are the "General Fund Taxes and State Aids"), to the extent necessary to repay the Certificates, shall be and are hereby at all times irrevocably pledged for the payment of principal and interest on the Certificates when due. If the General Fund Taxes and State Aids are insufficient to pay all principal and interest on the Certificates when due, the treasurer shall, nevertheless, provide sufficient monies from other funds of the City which are available for that purpose, and such other funds shall be reimbursed from said accounts when the balances therein are sufficient. It is recognized that the City's liability on the Certificates is not limited to the collection of said General Fund Taxes and State Aids, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, assessed and collected, any additional taxes found necessary for full payment of the principal and interest, without limitation as to rate or amount.

Section 15. The City Council covenants and agrees with the holders of the Certificates that the City will (i) take all action on its part necessary to cause the interest on the Certificates to

be exempt from federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Certificates and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Certificates to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Certificates and investment earnings thereon on certain specified purposes.

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

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

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

Section 19. The City acknowledges that the Certificates are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the obligations. To provide for the public availability of certain information relating to the Certificates and the security therefor and to permit underwriters of the Certificates to comply with the Rule, which will enhance the marketability of the Certificates, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk.

Resolution 02-0096 was unanimously adopted.

Approved February 7, 2002

GARY L. DOTY, Mayor

- - -

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. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Laws 1979, Chapter 113, and Minnesota Statutes, Section 475, as amended, and other pertinent provisions of said Charter and Statutes, the City is authorized to issue its general obligation bonds to provide funds for the payment of costs of improvements to the municipal steam utility (including bonds representing part of the interest cost of the issue, within the limitations specified in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Minnesota Statutes, Section 475.56), which bonds shall be a specific lien upon the utility and are payable primarily from net revenues to be derived from the operation of such municipal steam utility and pledged for their payment.

1.02 The city council has, by Ordinance No. 9479 adopted on February 26, 2001, authorized the issuance and sale of general obligation bonds of the City to finance improvements to the City's central steam utility located in the downtown area of Duluth (the "Project"), in an amount not to exceed \$350,000.

1.03 As required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), the City has, on February 7, 2002, held a public hearing on the issuance of general obligation bonds to finance a portion of the Project.

1.04 Evensen Dodge, Inc., financial consultant to the City, has given notification by mail, facsimile, electronic data transmission or other form of communication common to the municipal bond trade to at least five firms determined by Evensen Dodge, Inc. to be prospective bidders on the General Obligation Steam Utility Revenue Bonds, Series 2002B (the "Bonds") at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Evensen Dodge, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.05 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Miller Johnson Steichen Kinnard, Inc. of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$345,000, plus accrued interest on the total principal amount from February 1, 2002, to the date of delivery of the Bonds and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated February 1, 2002, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated and shall bear interest as follows:

Year	Amount	Interest Rate
2003	\$25,000	4.30%
2004	30,000	4.30%
2005	30,000	4.30%
2006	30,000	4.30%
2007	35,000	4.30%
2008	35,000	4.30%
2009	35,000	4.30%

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Year	Amount	Interest Rate
2010	40,000	4.30%
2011	40,000	4.40%
2012	45,000	4.50%

2.02 The Bonds are not subject to optional redemption and prepayment before maturity.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2002. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

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

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

2.05 The City hereby appoints Wells Fargo Bank 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"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk. 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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

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

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

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

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

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

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

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

CITY OF DULUTH
GENERAL OBLIGATION STEAM UTILITY REVENUE BOND
SERIES 2002B

R-____ \$ _____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	February 1, 2002	

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, 2002, 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, 2002. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank 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 \$345,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Section 55 of the Home Rule Charter of the City, Minnesota Laws 1979, Chapter 113, and Minnesota Statutes, Section 475, as amended, and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on February 7, 2002 (the "Resolution"), and is issued for the purpose of providing funds to pay for improvements to the municipal steam utility located in the downtown area of Duluth and for payment of part of the interest cost of said bond issue. The principal hereof and interest hereon are payable primarily from net revenues to be derived from the operation of the downtown area municipal steam utility as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. The Bonds are not subject to optional redemption and prepayment before maturity.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

pursuant to the Resolution hereinabove described.

WELLS FARGO 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 Wells Fargo 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	Registered Owner	Signature of Bond Registrar
2/___/02	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 A. The city council covenants and agrees with the holders of the Bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the central municipal steam utility located in the downtown area of Duluth (the "Duluth Steam Plant") at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the Duluth Steam Plant and segregate and account for the revenues thereof as provided in this section.

The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the Duluth Steam Plant in a separate Steam Utility Operating Account within the Public Utility Steam District No. 1 Fund maintained under Section 54 of the City Charter. Except as provided in this section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the Duluth Steam Plant, and to maintain such reasonable reserves for such expenses as the director of finance shall determine to be necessary from time to time in accordance with policies established by the city council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all Duluth Steam Plant bonds when due.

B. The City has created a separate construction account within the Public Utility

Steam District No. 1 Fund to which there shall be credited \$345,000 from the proceeds of the Bonds, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, together with any additional funds which may be available and are appropriated for improvements to the Duluth Steam Plant. This account shall be used only to pay expenses duly approved and allowed which, under generally accepted accounting principles, constitute capital expenditures for the completion of improvements to the Duluth Steam Plant and costs of the issuance of the Bonds.

C. Until the Bonds issued hereunder are fully paid or otherwise discharged, the City will also maintain a separate debt service account (the "Steam Debt Service Fund") in the Public Utility Steam District No. 1 Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the Duluth Steam Plant. The treasurer shall credit to the Steam Debt Service Fund all proceeds of the Bonds in excess of \$345,000, 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 Steam Utility Operating Account to the Steam Debt Service Fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the Bonds, and all charges due to the Bond Registrar. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the city council.

D. Surplus utility revenues from time to time received in the Steam Utility Operating Account, in excess of payments due from and reserves required to be maintained in the Steam Utility Operating Account and in the Steam Debt Service Fund, may be used for necessary capital expenditures for the improvement of the Duluth Steam Plant, for the prepayment and redemption of bonds constituting a lien on the Duluth Steam Plant, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

3.02 If the balances in either Debt Service Fund are ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balances therein are sufficient. It is estimated that the net revenues herein pledged and appropriated to said Debt Service Fund will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 4. Tax Covenants; Miscellaneous.

4.01 The City recognizes that the exemption of interest to be paid on the Bonds is dependent upon the Bonds qualifying under the exemption for "exempt-facility bonds" set forth in Section 142(a)(9) of the Internal Revenue Code of 1986, as amended (the "Code"). In order to assure that the interest on the Bonds shall at all times be excludable from gross income for federal income tax purposes, the City covenants with all owners of the Bonds:

A. that it will fulfill all conditions specified in Sections 103 and 141 through 150 of the Code and applicable Treasury Regulations and rulings issued thereunder as may be necessary to maintain the exclusion from gross income for federal income tax purposes of the

interest on the Bonds;

B. that it will fulfill all conditions specified in Section 142(a)(9) and Section 142(g) of the Code, and applicable federal income tax regulations;

C. that at least 95% of the net proceeds of the Bonds will be used for the acquisition, construction, reconstruction or improvement of land or property for local district heating or cooling facilities, as defined in Section 142(g) of the Code, of a character subject to the allowance for depreciation under Section 167 of the Code, paid or incurred after in compliance with Treasury Regulations Section 1.150-2;

D. that no portion of the proceeds of the Bonds will be used to provide any of the following facilities or facilities related or incidental thereto: any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack, residential rental property, airplane, skybox or other private luxury box, any health club facility, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises;

E. that less than 25% of the net proceeds of the Bonds are to be used (directly or indirectly) to acquire land (or any interest therein);

F. that none of the proceeds of the Bonds will be used for the acquisition of any property (or any interest therein) unless the first use of such property is pursuant to such acquisition;

G. that it has not leased, sold, assigned, granted or conveyed and will not lease, sell, assign, grant or convey all or any portion of the Project or any interest therein to the United States or any agency or instrumentality thereof within the meaning of Section 149(b) of the Code;

H. that it will not expend or authorize the expenditure of more than 2% of the face amount (or 2% of the proceeds, if less) of the Bonds to be applied to the payment of issuance costs within the meaning of Section 147(g) of the Code;

I. that it will not use the proceeds of the Bonds in such a manner as to cause the Bonds to be "arbitrage bonds" under Section 148(a) of the Code and applicable regulations;

J. that there are no outstanding obligations the interest on which is excludable from federal gross income of the owners thereof for purposes of federal income tax purposes held by a person who is a substantial user of the Project or by a related person of such a substantial user within the meaning of Section 147(a) of the Code; and

K. that it will comply with and fulfill all other requirements and conditions of the Code and regulations and rulings issued pursuant thereto relating to the Project.

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.

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 02-0097 was unanimously adopted.

Approved February 7, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

Section 1. Bond Purpose and Authorization.

1.01 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. 9509 adopted on October 22, 2001, authorized the issuance and sale of \$3,400,000 general obligation bonds of the City to provide the funds necessary to match federal and state grants for the purpose of financing a portion of the construction costs of an airplane manufacturing industry incubator project at the Duluth International Airport (the “Project”).

C. Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$3,400,000 Taxable General Obligation Airport Improvement Bonds, Series 2002A, to be dated February 1, 2002, as the date of original issue (the “Bonds”) for financing the Project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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

1.02 Pursuant to such solicitation for bids for the sale of the Bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Cronin & Co., Inc. of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$3,386,595.50, plus accrued interest on the total principal amount from February 1, 2002, 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 clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The 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 February 1, 2002, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

Year	Amount	Interest Rate
2004	\$160,000	4.00%
2005	170,000	4.25%
2006	180,000	5.00%
2007	190,000	5.00%
2008	200,000	5.20%
2009	215,000	5.50%
2010	225,000	5.65%
2011	240,000	5.80%
2012	255,000	5.90%
2013	275,000	6.00%
2015	600,000	6.20%
2017	690,000	6.25%

B. The Bonds maturing on February 1 in the years 2015 and 2017 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

interest accrued thereon to the redemption date, without premium. The Bond Registrar, as designated below, shall select for redemption, by lot or other manner deemed fair, on February 1 in each of the following years, the following stated principal amounts:

- (1) For Bonds maturing on February 1, 2015 (the "2015 Term Bonds"):

Year	Principal Amount
2014	\$290,000

The remaining \$310,000 stated principal amount of the 2015 Term Bond shall be paid at maturity on February 1, 2015.

- (2) For Bonds maturing on February 1, 2017 (the "2017 Term Bonds"):

Year	Principal Amount
2016	\$335,000

The remaining \$355,000 stated principal amount of the 2017 Term Bond shall be paid at maturity on February 1, 2017.

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 2004 through 2011 shall not be subject to optional redemption and prepayment before maturity, but those maturing in the year 2012 and subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2011, and on any date thereafter, in whole or in part, in such order of maturities as selected by the City and by lot as to 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, 2002. 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 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 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 clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Wells Fargo Bank 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"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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
TAXABLE GENERAL OBLIGATION AIRPORT IMPROVEMENT BOND,
SERIES 2002A

R-___ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	February 1, 2002	

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, 2002, 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, 2002. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank Minnesota, National Association, in

Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the city council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$3,400,000, 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 February 7, 2002 (the "Resolution"). The Bonds are issued for the purposes of financing a portion of the construction costs of an airplane manufacturing industry incubator project at the Duluth International Airport, and are 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. 9509, which obligations and interest thereon are payable from annual ad valorem taxes, as described in the Resolution.

The Bonds maturing in the years 2015 and 2017 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 2004 through 2011 are not subject to optional redemption before maturity, but those maturing, or subject to mandatory redemption, in the year 2012 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2011, and on any date thereafter upon 30 days' notice, in whole or in part, in such order of maturities as selected by the City and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Prior to the date fixed for redemption 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK 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 Wells Fargo 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	Registered Owner	Signature of Bond Registrar
2/___/02	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)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

_____ 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 has created capital improvement fund No. 430 (Airplane Manufacturing Incubator Project Fund), to which there shall be credited the proceeds of the Bonds, less discount, capitalized interest and accrued interest. The City shall, or will, also credit to capital improvement fund No. 430 any additional funds, including grant funds which may be available and are appropriated for the Project. This fund shall be used to pay, or reimburse, expenses duly approved and allowed, which, under generally accepted accounting principles, constitute capital expenditures for the Project and to pay the costs of issuance for the Bonds.

3.02 A separate debt service account is hereby created and designated as the "2002 Taxable General Obligation Airport Improvement Bonds Debt Service Account" (the "Debt Service Account") within the City's debt service fund. The money in the Debt Service Account shall be used for no purpose other than the payment of principal and interest on the portion of the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service 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 Debt Service Account shall be credited unused discount, if any, plus capitalized interest in the amount of \$96,426.25, and plus the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds.

3.03 A. The full faith and credit and taxing power of the City are hereby irrevocably

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

pledged for the prompt and full payment of the principal of and interest on the Bonds, as such principal and interest respectively become due. To provide monies for the payment of the principal and interest on the Bonds, there is hereby levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls and collected with and part of the other general property taxes of the City for the years and in the amounts as set forth as follows:

Levy Year	Collection Year	Tax Levy
2002	2003	471,743
2003	2004	374,276
2004	2005	377,189
2005	2006	378,239
2006	2007	378,764
2007	2008	383,594
2008	2009	381,678
2009	2010	384,080
2010	2011	385,214
2011	2012	390,417
2012	2013	388,842
2013	2014	390,963
2014	2015	397,032
2015	2016	396,047

Said levies are such that if collected in full they will produce at least 5% in excess of the amount needed to meet when due the principal and interest on the Bonds.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that in each year while any Bonds issued hereunder remain outstanding, the city council may reduce or cancel the above levies to the extent of an irrevocable appropriation to the Debt Service Account of monies actually on hand for payment of the portion of such principal and interest payable from ad valorem taxes, and may direct the county auditor to reduce the levy for such calendar year by that amount.

The City intends to enter into a sub-lease agreement with Cirrus Design Corporation ("Cirrus") in which the City will lease the Project to Cirrus. It is the intention of the city council to annually appropriate the net rentals from such sub-lease to the Debt Service Account to provide funds to cancel such tax levy and to pay all or a portion of the principal of and interest on the Bonds.

B. All taxes are hereby appropriated and shall be paid when collected into the Debt Service Account. If the balance in the Debt Service Account is ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient

money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Account when the balance therein is sufficient.

3.04 Proceeds of the Bonds on deposit in the Construction Fund and the Debt Service Account may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 4. 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 clerk.

Section 5. Certificate of Proceedings.

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

5.02 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.

5.03 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 02-0098 was unanimously adopted.

Approved February 7, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that Krause-Anderson be and hereby is awarded a contract for the construction of an aviation incubator facility at the Duluth International Airport, in accordance with contract documents as prepared by Stanius Johnson Architects on its low bid of \$4,838,000 (base bid + add-alternates 1-6), terms net 30, FOB job site, payable out of Fund 0430, Dept./Agency 020, Object 5520.

Resolution 02-0114 was unanimously adopted.

Approved February 7, 2002

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

GARY L. DOTY, Mayor

- - -

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

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 11, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

The minutes of the council meeting held on January 14, 2002, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0211-01 Walt Prentice, et al. (two signatures) submitting petition to vacate four feet of a ten foot unused utility easement running on the east side of Lot 2, Vermilion Road Division. -- Assessor

02-0211-12 Minnesota department of natural resources submitting communications regarding the proposed Spirit Ridge project. -- Received

02-0211-02 St. Louis County Heritage and Arts Center submitting application for rental during which alcoholic beverages will be served from AIA Minnesota on February 22, 2002. -- Received

02-0211-19 The following submitting communications regarding the proposed construction of the Fond du Lac water system (02-0124R): (a) Albert A. Chepelnik; (b) Fond du Lac Community Club; (c) Fond du Lac utility task force. -- Received

- - -

REPORTS OF OFFICERS

02-0211-03 Assessor submitting:

(a) For confirmation the assessment roll levied to defray the assessable portion of sanitary sewers in 38th Avenue West from Fourth Street to Fifth Street Alley and Polk Street/Raleigh Street area, Contract 5335 (assessable - \$52,199.59);

(b) Letter of sufficiency of petition to reclassify from R-2 to C-1 Lot 1, Block 7, Nortons Steel Plant Division. -- Received

02-0211-18 Business development division submitting report of financial assistance extended to businesses in 2001, pursuant to Ordinance 9359. -- Received

02-0211-04 Parks and recreation department director submitting Lake Superior zoological society minutes of: (a) January 8 (annual); (b) January 8 (business); (c) January 23, 2002, meetings. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-0211-05 Civil service board minutes of November 6, 2001, meeting. -- Received

02-0211-06 Duluth housing commission minutes of: (a) September 27; (b) November 8, 2001, meetings. -- Received

02-0211-07 Duluth/North Shore sanitary district board: (a) Copy of notice from the Minnesota pollution control agency (MPCA) regarding the negative declaration of the MPCA citizens board regarding the environmental assessment worksheet for the Duluth/North Shore sewer project; (b) Minutes of January 8, 2002, meeting. -- Received

02-0211-08 Duluth transit authority: (a) Financial statement summary of November 2001; (b) Minutes of November 28, 2001, meeting. -- Received

02-0211-09 Housing and redevelopment authority of Duluth minutes of November 27, 2001, meeting. -- Received

02-0211-10 Special assessment board: (a) Minutes of December 11, 2001, meeting; (b) Public hearings, reports, findings and recommendations for the proposed improvements of: (1) 61st Avenue West Alley between McGonagle Street and 102nd Avenue West; (2) 103rd Avenue Alley between Bristol Street and Greene Street. -- Received

02-0211-11 Spirit Mountain recreation area authority minutes of December 26, 2001, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Elijah expressed support for a site for individuals recovering from alcohol and that the site for this should be out of town.

- - -

Tiffany Nielson updated the council on her dealings with Comfort Systems regarding her acquiring service and the need for credit background information.

- - -

Greg Price commented on a copy of a newspaper article regarding watersheds (Public Document No. 02-0211-20), noting the need for cleaning up and maintaining the Lake Superior watershed.

- - -

Kay L. Lewis expressed her support for cleaning up the brownfields and the need to plant trees at this time at the old Morgan Park steel plant.

- - -

RESOLUTIONS TABLED

Councilor Stenberg moved to remove Resolution 02-0068, authorizing an agreement with Jader Enterprises, Inc., for professional services in an amount not to exceed \$68,000, from the table, which motion was seconded and unanimously carried.

Resolution 02-0068 was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officers are authorized to enter into an agreement with Jader Enterprises, Inc., for professional services relating to the Technology Village substantially in the form of that on file in the office of the city clerk as Public Document No. 02-0211-13, in an amount not to exceed \$68,000, payable from Fund 0255, contingent upon receipt by the city of a Soft Center work force development fund grant from the Minnesota Legislature.

Resolution 02-0068 was unanimously adopted.

Approved February 11, 2002

GARY L. DOTY, Mayor

- - -

Councilor Stenberg moved to remove Resolution 02-0069, authorizing an agreement with Brian Fitzgerald for professional services in an amount not to exceed \$56,000, from the table, which motion was seconded and unanimously carried.

Resolution 02-0069 was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officers are authorized to enter into an agreement with Brian Fitzgerald for professional services relating to the Technology Village substantially in the form of that on file in the office of the city clerk as Public Document No. 02-0211-14, in an amount not to exceed \$56,000, payable from Fund 0255, contingent upon receipt by the city of a Soft

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Center work force development fund grant from the Minnesota Legislature.

Resolution 02-0069 was unanimously adopted.

Approved February 11, 2002

GARY L. DOTY, Mayor

- - -

Councilor Stenberg moved to remove Resolution 02-0086, authorizing an agreement with the state of Minnesota relating to a state grant in the amount of \$500,000 in support of the Duluth Technology Village, from the table, which motion was seconded and unanimously carried.

Resolution 02-0086 was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that the city of Duluth accepts the appropriation of a \$500,000 grant to support the development of the Duluth Technology Village, said funds to be deposited into Fund 0255.

FURTHER RESOLVED, that the city of Duluth has not violated any federal, state or local laws pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

FURTHER RESOLVED, the city of Duluth may enter into agreements with the state of Minnesota for the above-referenced project and the city of Duluth certifies that it will comply with all applicable laws and regulations as stated in all agreements.

FURTHER RESOLVED, that the mayor of the city of Duluth is hereby authorized to execute such agreements as are necessary to implement the above-referenced project.

Resolution 02-0086 was unanimously adopted.

Approved February 11, 2002

GARY L. DOTY, Mayor

- - -

At this time, 7:30 p.m., the public hearing on the Fond du Lac water system extension began.

David Prusak, chief engineer of utilities, reviewed the scope of the project and how it is to be financed.

Mike Metso, city engineer, noted the comprehensive effort of the residents and the city.

Todd Pfeffer spoke in support of the project.

At this time, 7:35 p.m., the public hearing was closed.

- - -

Councilor Stover moved to suspend the rules to consider Resolution 02-0124 at this time, which motion was seconded and unanimously carried.

Resolution 02-0124, by Councilor Stover, ordering the construction of the Fond du Lac water system pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth at an estimated cost of \$1,150,000, was introduced for discussion.

Resolution 02-0124 was adopted as follows:

BY COUNCILOR STOVER:

WHEREAS, that pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth, the city council hereby orders the construction, to city of Duluth standards, of a water system in the Fond du Lac area; that the costs of said improvements are estimated at \$1,150,000 that shall be paid from Special Assessment Fund 0410, to be reimbursed by U.S. army corps of engineers section 569 federal water resources grant estimated at \$500,000; a community development block grant of approximately \$130,000; city water utility funds estimated at \$440,000; with the remainder of said costs levied against the property specifically benefited by said improvements.

Resolution 02-0124 was unanimously adopted.

Approved February 11, 2002
GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

RESOLVED, that the assessment rolls levied to defray the assessable portions of the construction of:

(a) Sanitary sewer in 38th Avenue West from Fourth Street to Fifth Street Alley (Contract No. 5335, assessable amount - \$30,175.65);

(b) Sanitary sewer in Polk Street from 59th Avenue West to 60th Avenue West (Contract No. 5335, assessable amount - \$22,023.94), are hereby confirmed.

Resolution 02-0110 was unanimously adopted.

Approved February 11, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Chesley Freightliner-Duluth be and hereby is awarded a contract for furnishing and delivering two Freightliner Model FL80 cab and chassis for the fleet services divisions in accordance with specifications on its low specification bid of \$173,291.98, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization RS02, Object V207.

Resolution 02-0102 was unanimously adopted.

Approved February 11, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Comark Sales, Inc., be and hereby are awarded a contract for furnishing and delivering miscellaneous microcomputer hardware, ordered as needed during a 12 month period in accordance with specifications and referencing state of Minnesota Contracts #426490 pricing for the various city departments/divisions, terms net 30, FOB destination, payable out of various funds, depts./agencies, organizations, objects; not to exceed the year 2002 budget allocation for computer equipment.

Resolution 02-0103 was unanimously adopted.

Approved February 11, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Premier Lawn Service/Painting be and hereby is awarded a contract for snow plowing of municipal parking lots and ramps for the facilities management division in accordance with specifications on its low specification bid of \$25,000, terms net 30, FOB job sites, payable out of General Fund 0100, Dept./Agency 015, Organization 2500, Object 5402.

Resolution 02-0104 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Approved February 11, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Hinckley Chevrolet be and hereby is awarded a contract for furnishing and delivering one Chevrolet Tahoe and accessories for the fire department in accordance with specifications on its low specification bid of \$26,589.98, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization RS02, Object V201.

Resolution 02-0105 was unanimously adopted.

Approved February 11, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Inter-City Oil Company, Inc., be and hereby is awarded a contract for furnishing and delivering fuel as needed during the year 2002 for the various departments/divisions, in accordance with specifications on its low specification bid of \$498,010, terms net 30, FOB destination, payable out of various funds, depts./agencies, organizations, objects.

Resolution 02-0113 was unanimously adopted.

Approved February 11, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Arrowhead Equipment Company be and hereby is awarded a contract for furnishing and delivering tires and tubes as needed for a 12 month period for the fleet services division in accordance with specifications on its low specification bid, estimated to total of \$50,000, terms net 30, FOB destination, \$44,000 payable out of Fleet Fund 0660, Dept./Agency 015, Organization 1560, Object 5221 and \$6,000 payable out of Fleet Fund 0660, Dept./Agency 015, Organization 1560, Object 5404.

Resolution 02-0115 was unanimously adopted.

Approved February 11, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Maney International of Duluth, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Caterpillar diesel engines for the fleet services division in accordance with specifications on its low specification bid of \$30,000, terms net 30, FOB destination, \$27,000 payable out of Fleet Services Fund 0660, Dept./Agency 015, Organization 1560, Object 5221 and \$3,000 payable out of Fleet Services Fund 0660, Dept./Agency 015, Organization 1560, Object 5404.

Resolution 02-0119 was unanimously adopted.

Approved February 11, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Cartier Agency, Inc., be and hereby is awarded a 12 month contract for furnishing and delivering property insurance for city owned structures in accordance with specifications on its specification bid of \$81,428, terms net 30, FOB destination, payable out of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Self Insurance Fund 0610.

Resolution 02-0120 was unanimously adopted.

Approved February 11, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

HUMAN RIGHTS COMMISSION - Gary Gordon for a term expiring March 1, 2003, replacing C.J. Bird who resigned.

Resolution 02-0032 was unanimously adopted.

Approved February 11, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed specifications for the new civil service classification of park maintenance person, which were approved by the civil service board on December 4, 2001, and which are filed with the city clerk as Public Document No. 02-0211-15, are approved; that said classification shall be subject to the city's collective bargaining unit with its basic unit employees; and compensated at Pay Range 27, \$2,779 to \$3,288 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 02-0070 was unanimously adopted.

Approved February 11, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Ease 4 U, Inc., be and hereby is awarded a contract for furnishing and delivering remittance processor for the utility operation billing service in accordance with specifications on its low specification bid of \$105,551, terms net 30, FOB destination, \$31,665.30 payable out of Water Fund 0510, Dept./Agency 500, Organization 1905, Object 5580; \$46,442.44 payable out of Gas Fund 0520, Dept./Agency 500, Organization 1905, Object 5580; \$18,999.18 payable out of Sewer Fund 0530, Dept./Agency 500, Organization 1905, Object 5580; \$8,444.08 payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5580.

Resolution 02-0107 was unanimously adopted.

Approved February 11, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to have a scope and financial proposal for phase one stabilization; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for repair of the eroded shore embankment adjacent to lift station number three at 45th Avenue East and Lake Superior; and

WHEREAS, L.H.B. Architects and Engineers has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

to enter into an agreement with L.H.B. Engineers and Architects to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$7,557, will be payable from the Sewer Construction Bond Fund 0531, Dept./Agency 500, Object 5532.

Resolution 02-0108 was unanimously adopted.
Approved February 11, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 01-0534 to American Engineering Testings, Inc. (\$20,000), Twin Ports Testing, Inc. (\$20,000), and G.M.E. Consultants, Inc. (\$10,000), for field and laboratory testing during the year 2002 be amended to increase the amount by \$50,000 for a new total of \$100,000, payable from the various funds, depts./agencies, organizations, objects.

Resolution 02-0109 was unanimously adopted.
Approved February 11, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Carlson Brothers, Inc., be and hereby is awarded a contract for I&I separation/discharge to disconnect 50 houses at various locations for the utility operations division in accordance with specifications on its low specification bid of \$64,250, terms net 30, FOB job site, payable out of Sewer Fund 0530, Dept./Agency 500, Organization 1970, Object 5482.

Resolution 02-0116 was unanimously adopted.
Approved February 11, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement between the city of Duluth and the board of regents of the University of Minnesota for stream monitoring services done pursuant to a grant to the city from the U.S. environmental protection agency; said agreement filed as Public Document No. 02-0211-16, for a consideration of \$262,509 payable from Fund 0210, Agency 030, Organization 2141, Object 5319. This resolution authorizes a two year agreement with our major partner, UMD, to do the actual stream testing, data collection and some data dissemination. Funding will come from the EPA grant.

Resolution 02-0117 was unanimously adopted.
Approved February 11, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officials are hereby authorized to execute a subordination, nondisturbance and attornment agreement between the city of Duluth, A&L Partnership and M&I Marshall & Isley Bank with regard to the horse stable property in Canal Park known as the St. Croix Station.

Resolution 02-0112 was unanimously adopted.
Approved February 11, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officials are hereby authorized to execute a drug elimination grant with the Duluth housing and redevelopment authority for an amount not to exceed \$96,574 relating to implementation of a federal drug elimination grant program, which documents are on file in the office of the city clerk as Public Document No. 02-0211-17. Grant monies shall be deposited in Fund 0215, Agency 200, Org. 2437, Revenue Source 4255.

Resolution 02-0118 was unanimously adopted.

Approved February 11, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

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

front of 846 87th Avenue West;

front of 202 East Fourth Street;

front of 2629 West Sixth Street;

front of 618-1/2 North 56th Avenue West;

front of 4210 West Sixth Street;

front of 622 North 58th Avenue West;

front of 1914 East Fifth Street;

two spaces in front of 1902 East Fourth Street (Glad Tidings Church);

front of 1405 Commonwealth Avenue;

front of 10 West Ninth Street;

front of 2728 West Second Street;

front of 1829 East Superior Street.

Resolution 02-0122 was unanimously adopted.

Approved February 11, 2002

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the Duluth City Council hereby approves DEDA Resolution 02D-06 adopted at its January 29, 2002, meeting pursuant to which DEDA committed to reimburse Cirrus Design Corporation up to \$90,000 to fund remediation costs pertaining to the Duluth aviation manufacturing incubator project, said amount payable from Fund 0860, 860, 8644.

Resolution 02-0101 was unanimously adopted.

Approved February 11, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0121, by Councilor Bergson, authorizing the administrative assistant to approve mutual aid to surrounding communities in emergencies, was introduced for discussion.

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

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

The following entitled ordinance was read for the first time:

BY COUNCILOR STOVER

02-004 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN CENTRAL HILLSIDE TO THE NORTHERN COMMUNITIES LAND TRUST.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR STOVER

02-003 (9524) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY AT 38TH AVENUE EAST AND THIRD STREET TO ROBERT AND CYNTHIA BACKSTROM.

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

- - -

The meeting was adjourned at 7:55 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9524

BY COUNCILOR STOVER:

AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY AT 38TH AVENUE EAST AND THIRD STREET TO ROBERT AND CYNTHIA BACKSTROM.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, by quit claim deed, to Robert and Cynthia Backstrom for \$200 and to execute all documents necessary with regard to said conveyance:

That portion of Outlot Y, CRESCENT VIEW PARK DIVISION, including vacated street right-of-way, lying 33 feet south of and equidistant from the following described line:

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

except minerals.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication or after receipt of a deed from the state of Minnesota conveying to the city title to Outlot Y, CRESCENT VIEW PARK DIVISION, whichever occurs later. (Effective date: March 4, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed February 11, 2002

Approved February 11, 2002

GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 25, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

The minutes of the city council meeting held on January 28, 2002, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0225-01 Housing and Redevelopment Authority of Duluth, et al. (three signatures), submitting petition to extend the public sewer in 11th Street Alley to serve properties with street addresses of 1016 and 1018 14th Avenue East. -- Assessor

02-0225-03 Carla Blumberg submitting acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance No. 9515 on November 26, 2001. -- Received

02-0225-16 Charles E. Mehlberg submitting communication regarding amendment of Chapter 50, Duluth City Code, relating to bed and breakfast inns and country inns (02-006-O). Received

02-0225-04 The following submitting communications submitted regarding proposed 20 year lease to the Minnesota department of natural resources of property adjacent to Congdon Boulevard for the McQuade Road safe harbor project (02-0095R): (a) Paul M. Anderson; (b) Iver Bogen; (c) Nic and Amanda Caine; (d) Dawn Dannenbring-Carlson; (e) Cheryl Dannenbring; (f) Lois Janson; (g) Brian Klawiter; (h) Glenn Maxham; (i) Bill Nash; (j) Jim Ofsthun; (k) Christine Penney; (l) Kinnan Stauber; (m) Blanche Wilcox. -- Received

- - -

REPORTS OF OFFICERS

02-0225-05 Mayor Doty submitting communication appointing Councilor Ken Hogg acting mayor in his absence. -- Received

02-0225-06 Administrative services department director submitting lease agreements with Duluth Convention and Visitors Bureau and A&L Properties, pursuant to Section 2-31 of the Duluth City Code. -- Mayor for execution

02-0225-07 Assessor submitting letter of sufficiency of petition to vacate the four feet of a ten foot unused utility easement running on the east side of Lot 2, Vermilion Road Division. -- Received

02-0225-08 Clerk submitting applications to Minnesota gambling control board for exemptions from lawful gambling licenses from: (a) Faith Lutheran Church (bingo) on March 1, 2002; (b) Rocky Mountain Elk Foundation Head of the Lakes Chapter (raffles) on April 19-21, 2002. -- Received

02-0225-09 Engineering division submitting monthly project status report of February 1, 2002. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-0225-10 Alcohol, gambling and tobacco commission minutes of January 8, 2002, meeting. -- Received

02-0225-11 Duluth/North Shore sanitary district board minutes of February 5, 2002, meeting. -- Received

02-0225-12 Environmental advisory council minutes of: (a) December 5, 2001; (b) January 9, 2002, meetings. -- Received

02-0225-13 Housing and redevelopment authority of Duluth minutes of December 27, 2001, meeting. -- Received

02-0225-14 Parking commission minutes of December 11, 2001, meeting. -- Received

02-0225-15 Planning commission minutes of: (a) December 11, 2001; (b) January 8, 2002, meetings. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

John Gordon stated that controlling laws against honest citizens are not constitutional and he will watch the city council to make sure that they uphold the constitution.

- - -

Elijah stated the real term for smokers is polluters and urged the council to continue the ban on smoking to help the environment.

- - -

Peter Martin urged the council to have an independent audit of the Lake Superior Center done.

- - -

KL Lewis stated that the constitution does not excuse any citizen from the duty to abide by any ordinance enacted by any community or state government.

- - -

RESOLUTIONS TABLED

Councilor Stenberg moved to remove Resolution 02-0095, authorizing 20 year lease to the Minnesota department of natural resources (DNR) of property adjacent to Congdon Boulevard for the McQuade Road safe harbor project, from the table, which motion was seconded and unanimously carried.

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

The following speakers opposed the resolution for the following reasons: Clyde Ritchie, Glenn Maxham, Christine Penny, Christina Wagner, Mary Van Evera, John Green, KL Lewis, John Sanford, Iver Bogen, Ed Kale and Peggy Marrin requested the councilors to take time to review the lease and the complications that go with it; this project has no merit except for the fishermen's convenience for their hobby; the DNR is putting the city at great safety risks; the money used for this project would be better served for jobs to retain youth from leaving Duluth and programs that serve at risk youth; this project will not offer the economic development that Duluth needs; elected officials should know what is right and wrong and this project is wrong; Duluth should not be pressured into signing the lease by the DNR because of the eminent domain threat; conditions of the Chester Congdon Trust are being violated; this project threatens the protection of the green space to prevent urban sprawl from going up the shoreline of Lake Superior; the repair money and staffing of the boat landing have not been taken into account; this project will clutter and destroy the natural shoreline; there is no demonstrated need for a boat landing; if there is a need for a harbor, McQuade Road is the wrong site; this project should be decided by a vote by the citizens of Duluth; this is an ethical issue with greed and ignorance overriding ethics and let the state take the land so they will be the only one named on a lawsuit if one is filed.

Jeff Cook, Duluth Township clerk, stated that the township has supported this project through various resolutions at their meetings. He reviewed that the city pulled out of this project when most of the money had been set aside by the state, most of the money has come from user fees of the fishermen and boaters, and the businesses along the North Shore would like the extra

traffic and dollars that would come from the citizens and the tourists.

Councilors Hogg, Stewart and Gilbert stated that the city is losing control if the city signs the lease, since the city is then signing a blank check; there is no site plan included in the lease which means the state does not need the city's approval when changes are made to the lease; it is unclear who will be in charge of maintenance for the area; it is illegal per Ordinance 606; once the lease is signed, the city will be in too far if there are problems down the road; there is clearly inadequate language in the lease; there is a better use of the land for the public to use; the priorities of the legislature are wrong; the state probably will not pass any money in the bonding bill to supplement this project; the cost of the land the city is going to lose; it is fiscally irresponsible; it is a desecration of the area and will be a catalyst of future development in that area; the lease does not prohibit any future construction that would be against the Chester Congdon Trust; it is an issue that needs self examination and is the city looking at principles or politics.

To questioning from Councilor Atkins, City Attorney Brown replied that the lease is a ground lease and not a project participation agreement so the state can utilize the land for the stated purpose of recreational use for 20 years, but if the state decides not to build the project, then the land can be used only for that stated purpose for that period of time, or the state can use the escape clause to get out of the lease. He continued by saying that if the condemnation process is completed, the ownership of the land belongs to the state, and they can use the land for whatever purpose they wish to and whether or not there would be any restrictions on what use the state could put to the property would be between the state and parties other than the city. Mr. Brown reviewed that if the lease process is done, the property comes back to the city after the 20 years if the city doesn't renew the lease, and in the condemnation process, the property would be perpetually in the possession of the state. To further questions, he replied that because it is a ground lease, the city is not under any obligation to maintain improvements. Mr. Brown replied to questions on liability of the city, and stated that the city's liability is limited by Chapter 466 of Minnesota Statutes and the city does not take on any additional liability because it is leasing land to the state. He also stated that he has received an opinion from the state attorney general's office stating that this project does not violate the Chester Congdon Trust.

Councilor Atkins stated that even if a councilor does not support the project, having some input and choices by approving the lease is better than having no control of the project.

Councilor Bergson stated that while he is not in favor of the project, having the state condemn the property and the city losing control over the project would not be beneficial to the city.

To Councilor Stewart's questioning, Mr. Brown replied that if the project referred to in this lease is constructed, it is consistent and not a violation of the Congdon Trust.

To Councilor Atkins' questioning, Mr. Brown replied that the city has the same controls over the normal permitting and zoning that the law requires of the area inside the city limits.

President Ness stated the act by the state in the 2001 legislative session where they stated they will acquire the site either by leasing or by condemnation, and with \$4 million in the bank from state and federal government, it is not a question of if the project will be built, but when and how the project will proceed. He continued by saying it is important that the city has a voice in how this project proceeds. President Ness also stated that when a project extends over several years and several different councils with time and money spent on the project, this council and the city must get public involvement early on and make a decision one way or the other and then commit to those projects. He reviewed that this project is very important to people who enjoy Lake Superior and want a safe access to the lake.

Resolution 02-0095 was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officials are hereby authorized to enter into a 20 year lease, a copy of which is on file in the office of the city clerk as Public Document No. 02-0225-17, with the state of Minnesota through its department of natural resources leasing to the state, for nominal consideration, property on Lake Superior at the intersection of McQuade Road and Condgon Boulevard for the McQuade Road safe harbor project.

Resolution 02-0095 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Stauber, Stenberg and President Ness -- 5

Nays: Councilors Gilbert, Hogg, Stewart and Stover -- 4

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR ATKINS:

RESOLVED, that Grossman Chevrolet, Inc., be and hereby is awarded a contract for furnishing and delivering one Chevrolet Silverado 2500 pickup truck for the fleet services division in accordance with specifications on its low specification bid of \$33,906.49, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization RS01, Object V107.

Resolution 02-0106 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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

Marshall School, 1215 Rice Lake Road, for May 3, 2002, with Marlene David, manager.

Resolution 02-0137 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license and on sale wine license for the period ending April 30, 2002, and August 31, 2002, respectively, subject to departmental approvals, payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

China Café of Duluth, Inc. (China Café), 1623 London Road, with Gun Chao Yu, president and Lis Yu, vice president.

Resolution 02-0138 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Approved February 25, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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

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

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

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

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

Licensee	Gambling site	Date application filed
Congdon Park Recreation Association	Round Up Bar	February 4, 2002
Piedmont Heights Hockey Association	All American Club	January 23, 2002
Piedmont Heights Hockey Association	Terry's Place	January 23, 2002
VFW Post #137	2024 West Superior Street	January 8, 2002

Resolution 02-0139 was unanimously adopted.

Approved February 25, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, the Arrowhead Builders Association and Duluth Archery Club 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 Arrowhead Builders Association and Duluth Archery Club 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 02-0140 was unanimously adopted.

Approved February 25, 2002
GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BY COUNCILOR ATKINS:

RESOLVED, that General Cleaning Corporation of Duluth be and hereby is awarded a contract for furnishing and delivering janitorial services at Washington Center for year 2002 for the facilities management division in accordance with specifications on its low specification bid of \$37,000, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 015, Organization 2500, Object 5319.

Resolution 02-0145 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Waste Management of Northern Minnesota be and hereby is awarded a contract for garbage/refuse removal at various city of Duluth buildings and locations for various departments and divisions in accordance with specifications on its low specification bid of \$86,500, terms net 30, FOB job site, payable out of various funds, depts./agencies, organizations, objects.

Resolution 02-0146 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Nortrax Equipment of Duluth be and hereby is awarded a contract for furnishing and delivering O.E.M. John Deere parts, repairs and rental of equipment for the fleet services division, as needed during 2002, for an estimated total of \$21,000, terms net 30, FOB shipping point, \$17,000 payable out of Fleet Fund 0660, Dept./Agency 015, Organization 1560, Object 5221 and \$4,000 payable out of Fleet Fund 0660, Dept./Agency 015, Organization 1560, Object 5404.

Resolution 02-0147 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

PARKS AND RECREATION COMMISSION - Joseph Perfetti (District 3) for a term expiring February 13, 2005, replacing Denis Sauve.

Resolution 02-0031 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

COMMUNITY DEVELOPMENT COMMITTEE - Joseph Perfetti (at large) and Bevan Schraw (at large) for terms expiring March 1, 2005.

Resolution 02-0126 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BY COUNCILOR STEWART:

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

PARKS AND RECREATION COMMISSION - Nicole Eld (District 7) and Karen Erickson (at large) for terms expiring February 13, 2005.

Resolution 02-0127 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

DULUTH HOUSING COMMISSION - Jeffery D. Anderson (at large) for a term expiring November 8, 2002, replacing Mary Dragich who resigned.

Resolution 02-0155 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

PARKS AND RECREATION COMMISSION - William Elliott (professional) for a term expiring February 13, 2005, replacing Ken Gilbertson who resigned.

Resolution 02-0156 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the south 1/2 of West Anoka Street extending 182 feet from the westerly right-of-way of Maxwell Avenue legally described as Anoka Street abutting Outlot A, Hartley Estates First Addition; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its February 12, 2002 meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Anoka Street abutting Outlot A, Hartley Estates First Addition described above, and as more particularly described on Public Document No. 02-0225-18.

RESOLVED FURTHER, that the northerly 20 feet of the vacated street easement be retained as a utility easement.

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

Resolution 02-0135 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Approved February 25, 2002
GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to accept \$3,139 in workforce investment act capacity building funds from the Minnesota department of economic security in accordance with Grant 1043400 and the capacity building plan as approved. Funds are available for the period from July 1, 2001, through June 30, 2002. Funds received will be deposited in Fund 0268, Budget Item 6253.

Resolution 02-0131 was unanimously adopted.
Approved February 25, 2002
GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to accept an additional \$36,150 in state dislocated worker funds from the Minnesota department of trade and economic development in accordance with City Contract No. 18947, Resolution 01-0436, passed June 25, 2001. Said monies, in combination with the \$215,265 accepted under Resolution 01-0597, and the \$78,882 accepted under Resolution 02-0037, will bring the allocation of available funds to provide workforce development services to dislocated workers defined in the amended program year 2001-2002 local plan to \$330,297. Funds received will be deposited in Fund 0268, Budget Item 6251.

Resolution 02-0132 was unanimously adopted.
Approved February 25, 2002
GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to accept an additional \$10,000 in Title V - Older American's Act funds from the Minnesota department of economic security in accordance with City Contract No. 18880, Resolution 01-0250, passed April 9, 2001. Said monies, in combination with the initial allocation of \$104,509 accepted in accordance with Resolution 01-0550 will bring the total allocation to \$114,509 for the period July 1, 2001, through June 30, 2002. Said funds will be used to provide workforce development services to seniors under the Older American's Act consistent with the program year 2001-2002 local plan for adult services. Funds received will be deposited in Fund No. 0271, Budget Item 6333.

Resolution 02-0133 was unanimously adopted.
Approved February 25, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct 160 feet of low pressure sanitary sewer and 175 feet of watermain along Minnesota Avenue beginning at the intersection of Minnesota Avenue and Ninth Street and extending northerly.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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 02-0123 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

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. 69640 (Old Bridge No. L8502) over Amity Creek on Seven Bridges Road, S.P. 118-080-22; and

WHEREAS, the grant has been approved and the amount of the grant has been determined to be \$675,161.25.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby accept said grant and affirms that any rehabilitation costs qualify for Minnesota state transportation funds in excess of the grant will be appropriated from funds available to the city of Duluth, and that any grant monies appropriated for the 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 hereunder shall be deposited into the Permanent Improvement Fund 0411, Agency 035, Org. 2109, Object 5530.

Resolution 02-0128 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth established the initial municipal state aid system of streets by resolution approved October 28, 1957, under provisions of Minnesota Laws 1957, Chapter 943; 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 street described as follows be and hereby is designated as a municipal state aid street of said city of Duluth, subject to the approval of the commissioner of transportation of the state of Minnesota:

Arthur Avenue from Garfield Avenue to Port Terminal Road (+)0.76 miles.

Resolution 02-0129 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are authorized to execute an amendment (Public Document No. 02-0225-19) to Public Document No. 00-0124-17, as amended by Resolution 01-0595, which is an agreement with Environmental Troubleshooters for environmental remediation and cost recovery associated with the Pioneer Bar building site to increase the compensation in said contract from \$24,245 to \$32,745, an increase of \$8,500 to be paid from the Self Insurance Fund 0610-036-1650-5319.

Resolution 02-0130 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to extend 11th Street Alley sanitary sewer across North 14th Avenue East approximately 70 feet to serve properties with street addresses of 1016 and 1018 North 14th Avenue East.

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

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 02-0136 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Michels Pipeline Construction, Inc., be and hereby is awarded a contract for construction of eight inch steel high pressure gas main and related work in Martin Road from Rice Lake Road to Arnold Road and in Arnold Road from Martin Road to West Austin Street for the utility operations division in accordance with specifications on its low specification bid of \$917,025.79, terms net 30, FOB job site, payable out of Gas Construction Bond Fund 0521, Dept./Agency 500, Object 5532.

Resolution 02-0148 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to complete engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for construction engineering and contract administration services for the rehabilitation of Bridge Number L6114 over Chester Creek on East Ninth Street; and

WHEREAS, L.H.B. Architects and Engineers has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with L.H.B. Engineers and Architects to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$94,275, will be payable from the Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2133, Object 5303; to be reimbursed from municipal state aid (MSA) funds.

Resolution 02-0149 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to complete engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

services required for preliminary and final design services for the rehabilitation of Bridge Number L8506 over Amity Creek on Seven Bridges Road; and

WHEREAS, L.H.B. Architects and Engineers has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with L.H.B. Engineers and Architects to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$37,968, will be payable from the Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2175, Object 5530.

Resolution 02-0150 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to complete engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for preliminary and final design services for the replacement of Bridge Number L8504 over Amity Creek on Seven Bridges Road; and

WHEREAS, L.H.B. Architects and Engineers has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with L.H.B. Engineers and Architects to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$42,304, will be payable from the Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2174, Object 5530.

Resolution 02-0151 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Hydro Supply Company, Inc., be and hereby is awarded a contract for furnishing and delivering water meter repair parts for the utility operations division in accordance with specifications on its low specification bid of \$35,000, terms net 30, FOB destination, payable out of Water Fund 0510, Dept./Agency 500, Organization 2410, Object 5227.

Resolution 02-0152 was unanimously adopted.

Approved February 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Northland Constructors be and hereby is awarded a contract for construction of Bridge Number 69640 on Seven Bridges Road over Amity Creek for the engineering division in accordance with specifications on its low specification bid of \$737,786.70, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2109, Object 5530. A portion of the project in the amount of \$675,161.25 will be reimbursed from State Transportation Fund 29.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Resolution 02-0154 was unanimously adopted.
Approved February 25, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of that on file in the office of the city clerk as Public Document No. 02-0225-20, 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 until December 31, 2002, at no change in the amount of the agreement, subject to the approval of the amendment by the St. Louis County Board of Commissioners.

Resolution 02-0141 was unanimously adopted.
Approved February 25, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that Animal Spectrum, Inc., be and hereby is awarded a contract for furnishing and delivering zoo animal foods for feline, omnivore, Polar Bear and primate diets for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$20,000, terms net 30, FOB shipping point, payable out of General Fund 0100, Dept./Agency 400, Organization 1814, Object 5245.

Resolution 02-0144 was unanimously adopted.
Approved February 25, 2002
GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR HOGG:

WHEREAS, Duluth's historic Wade Stadium hosts an average of 172 professional, college, high school and amateur baseball games each year; and

WHEREAS, teams and spectators for these baseball games travel to Duluth from Ontario, Manitoba, North Dakota, South Dakota, Nebraska, Iowa, Illinois, Indiana, Upper Michigan, Northern Wisconsin and all regions of Minnesota and produce annual participation and attendance at Wade Stadium in excess of 70,000; and

WHEREAS, the management and staff of the Mn/DOT Northeast District have determined that the demonstrated flow of nonlocal traffic to Wade Stadium each year justifies a partnership between Mn/DOT and the city of Duluth to establish signage on I-35 directing visitor traffic where to exit the freeway for Wade Stadium events; and

WHEREAS, the city of Duluth's responsibility in this partnership will be payment of out-of-pocket costs for installing and maintaining the I-35 signs at an estimated cost of approximately \$11,100, payable from General Fund 0100-500-2020, as well as a local street trail blazing sign program to direct traffic from the freeway exit to Wade Stadium;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth shall participate in this signage partnership with Mn/DOT and agree to fulfill its responsibilities as outlined above.

BE IT FURTHER RESOLVED, that the city of Duluth expresses its great appreciation to the management and staff of the Mn/DOT Northeast District for their efforts in support of partnership development with local government entities which continue to produce successful transportation and economic stimulus initiatives for Duluth and the Northeast Minnesota region.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Resolution 02-0159 was unanimously adopted.
Approved February 25, 2002
GARY L. DOTY, Mayor

- - -

Resolution 02-0161, by Councilor Atkins, in support of the affordable and market rate housing project in Duluth Heights, was introduced for discussion.

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

John Hawley urged support of the resolution as there are problems getting initiatives for low income housing, but this three way partnership of city, private partner and Habitat for Humanity will allow affordable market rate housing for families. He stated that the city is crucial for the acquisition and transfer of the tax forfeited land.

KL Lewis urged that these houses be close to the bus lines and easy access for emergency vehicles.

Resolution 02-0161 was adopted as follows:

BY COUNCILOR ATKINS:

WHEREAS, the Duluth City Council, as the legislative branch of city government:

(a) Recognizes that there is a critical shortage of affordable and market rate housing for the citizens of Duluth;

(b) Is dedicated to ensuring that young and working families of our community must be afforded the opportunity of home ownership;

(c) Is further dedicated to ensuring that the city engage in progressive, thoughtful, and innovative growth of existing neighborhoods;

(d) Understands that the city administration, Billman Construction, Inc., and Habitat for Humanity-Duluth have entered into a memorandum of understanding that will result in the development of as many as 30 affordable and market rate homes on tax forfeit land in Duluth Heights, Sixth Division;

(e) Believes that such a municipal private developer nonprofit organization partnership represents precisely the kind of innovative, smart growth necessary to meet the challenges of affordable and market rate housing in our community;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council applauds, supports and endorses the unique, progressive and important housing initiative undertaken by the city administration, Billman Construction, Inc., and Habitat for Humanity-Duluth.

Resolution 02-0161 was unanimously adopted.

Approved February 25, 2002
GARY L. DOTY, Mayor

- - -

Resolution 02-0125, by Councilor Stover, adjusting customer charges and user fees for the city's appliance servicing and repair service, was introduced for discussion.

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

- - -

Resolution 02-0056, by Councilor Bergson, to establish no parking on Ebony Street from Central Entrance Alley northerly 130 feet, was introduced for discussion.

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

Yeas: Councilor Atkins, Bergson, Hogg, Stewart and Stover -- 5

Nays: Councilors Gilbert, Stauber, Stenberg and President Ness -- 4

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR HOGG

02-005 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2001 INCREASING THE BUDGET USING UNDESIGNATED, UNRESERVED FUND BALANCE AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

- - -

BY COUNCILOR STENBERG

02-006 - AN ORDINANCE AMENDING SECTIONS 50-1, 50-35, 50-56, 50- 68 AND 50-72 OF THE DULUTH CITY CODE, 1959, AS AMENDED RELATING TO BED AND BREAKFAST INNS AND COUNTRY INNS.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR STOVER

02-004 (9525) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN CENTRAL HILLSIDE TO THE NORTHERN COMMUNITIES LAND TRUST.

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

- - -

The meeting was adjourned at 9:25 p.m.

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

- - -

ORDINANCE NO. 9525

BY COUNCILOR STOVER:

AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY
IN CENTRAL HILLSIDE TO THE NORTHERN COMMUNITIES LAND
TRUST.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to enter into a development agreement, a copy of which is on file in the office of the city clerk as Public Document No. 02-0225-02, with the Northern Communities Land Trust pursuant to which the city will convey by quit claim deed the below-described property in St. Louis County, Minnesota to the trust who will develop the property for low and moderate income and to execute all documents necessary with regard to said conveyance: Lot 3, East Fifth Street, Duluth Proper First Division.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: March 31, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed February 25, 2002
Approved February 25, 2002
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 11, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Absent: Councilor Atkins -- 1

- - -

The minutes of the city council meetings held on February 7 and 11, 2002, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0311-01 Consolidated Real Estate submitting petition to vacate a utility easement in Lots 9 and 10, Creekside Addition. -- Assessor

02-0311-02 Earl Richards submitting petitions to:

(a) Construct water, gas and sewer mains to serve Lots 5-10, Block 1, and Lots 1-11, Block 2, Richards First Addition;

(b) Construct a permanent residential street in Maryland Street from Dodge Avenue to Victoria Street. -- Assessor

02-0311-03 The following submitting communications regarding proposed amendments to bed and breakfast zoning regulations (02-006-O): (a) Susan Barton; (b) Jim and Mary Kay Berarducci; (c) Doug Carlson; (d) Dr. and Mrs. William Dols; (e) Lisa Hanft Casperson; (f) Barbara Kirschling; (g) Charles and Margery Longstreth; (h) Naomi Meints; (i) Nancy Norr; (j) Randolph Peterson; (k) Terry Pratts; (l) Barbara Russ; (m) Scott Sannes; (n) Thomas R. and Mollie Thibodeau; (o) Paula and Marc Tsufis; (p) Richard J. Wilson. -- Received

- - -

REPORTS OF OFFICERS

02-0311-04 Assessor submitting:

(a) Affidavit of mailing of notice of public hearing of the special assessment board on March 5, 2002, at 4:30 p.m. in Room 402, City Hall, regarding the proposed construction of a pressure sanitary sewer in Decker Road to serve properties beginning at a point 1,300 feet north of the intersection of Anderson Road northerly for 1,660 feet (estimated cost - \$170,000; assessable amount - \$132,000). -- Clerk

(b) For confirmation the assessment rolls levied to defray the assessable portions of the following contracts related to the 2001 street improvement program:

Central Hillside, Contract 7048 (assessable - \$31,450);

Cody - North, Contract 7049 (assessable - \$133,576.29);

Congdon Park - Central, Contract 7050 (assessable - \$183,681.58);

Congdon Park - Valley Drive, Contract 7050 (assessable - \$56,160.45);

Congdon Park - Lower West, Contract 7051 (assessable - \$197,076.05);

East Hillside, Contract 7052 (assessable - \$60,421);

Hunters Park - West, Contract 7053 (assessable - \$186,654.64);

Lakeside - Central, Contract 7054 (assessable - \$202,258.27);

Woodland - West Central, Contract 7055 (assessable - \$195,646.01);

(c) Letters of sufficiency of petitions to:

(1) Construct water, gas and sewer mains to serve Lots 5-10, Block 1, and Lots 1-11, Block 2, Richards First Addition;

- (2) Construct a permanent residential street in Maryland Street from Dodge Avenue to Victoria Street;
- (3) Extend the public sewer in 11th Street Alley to serve properties with street addresses of 1016 and 1018 14th Avenue East;
- (4) Vacate a utility easement in Lots 9 and 10, Creekside Addition. --

Received

02-0311-05 Clerk submitting applications to Minnesota gambling control board for exemptions from lawful gambling licenses from:

- (a) Duluth-Superior Symphony Association (raffle) on June 7, 2002;
- (b) Lincoln Park Business Group (raffle) on June 20, 2002. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

- 02-0311-06 Board of zoning appeals minutes of January 22, 2002, meeting. -- Received
- 02-0311-07 Civil service board minutes of January 10, 2002, meeting. -- Received
- 02-0311-08 Duluth airport authority minutes of: (a) January 15; (b) February 8, 2002, meetings. -- Received
- 02-0311-09 Duluth transit authority: (a) December 2001 financial statement summary; (b) Minutes of December 19, 2001, meeting. -- Received
- 02-0311-10 Heritage preservation commission minutes of December 13, 2001, meeting. -- Received

- 02-0311-11 Planning commission minutes of February 12, 2002, meeting. -- Received
- 02-0311-12 Seaway Port authority of Duluth minutes of: (a) November 21; (b) December 19, 2001; (c) January 29, 2002, meetings. -- Received
- 02-0311-13 Spirit Mountain recreation area authority minutes of: (a) July 29, 1996; (b) January 24; (c) March 8; (d) March 19; (e) March 28; (f) April 4; (g) October 24; (h) November 12; (i) November 28; (j) December 26, 2001; (k) January 23, 2002, meetings. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Joel Sipress urged the council to look carefully at a proposed town home development going in near Home Depot and to make sure this project does not violate the terms of the promise made after the referendum to maintain public open space in that area.

- - -

Peter Martin stated that the council should hire an independent accounting firm to do quarterly audits of the Lake Superior Aquarium so that the city and the public will be forewarned of fiscal problems.

- - -

CJ Bird voiced concern that the city is aware of racial profiling but has not taken the next step of identifying which officers are taking inappropriate action against minority citizens (Public Document No. 02-0311-14).

- - -

KL Lewis questioned if the smoking ordinance has been affecting the restaurants that have never allowed smoking.

- - -

RESOLUTIONS TABLED

Councilor Stenberg moved to remove Resolution 02-0056, to establish no parking on Ebony Street from Central Entrance Alley northerly 130 feet, by Councilor Bergson, from the table, which motion was seconded and unanimously carried.

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

Dave Barschdorf stated that his neighbors are parking along the street and in the alley which makes it difficult for him to get into his driveway. He requested the city to make the street no parking to eliminate this problem.

Resolution 02-0056 failed unanimously (Public Document No. 02-0311-15).

- - -

Councilor Hogg moved to remove Resolution 02-0121, authorizing the mayor to approve mutual aid to surrounding communities in emergencies, by Councilor Bergson, from the table, which motion was seconded and unanimously carried.

Resolution 02-0121 was adopted as follows:

BY COUNCILOR BERGSON:

WHEREAS, the Duluth City Council finds that there are situations where another local government may need the assistance of our local government's personnel and equipment and it would be impossible or impractical for the Duluth City Council to meet to authorize sending such assistance;

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Minnesota Statutes Section 12.27, the mayor or mayor's designee is authorized to dispatch equipment and personnel as deemed necessary to assist another local government in an emergency or disaster situation. This decision shall be made after considering at all times and in each case the internal needs of Duluth in addition to the needs of the party requesting Duluth's assistance. This action shall be considered to be an official act of Duluth and all of Duluth's policies regarding employee benefits and compensation and use of equipment will apply. The mayor or mayor's designee shall recall the equipment and personnel used in mutual aid if it is needed in Duluth, or if it is no longer needed by the government requesting the mutual aid.

Resolution 02-0121 was unanimously adopted.

Approved March 11, 2002

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

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

BY COUNCILOR HOGG:

RESOLVED, that the 2001 street improvement program assessment rolls levied to defray the assessable portions of the following:

- (a) Contract No. 7048, Central Hillside North (assessable - \$31,450.00);
- (b) Contract No. 7049, Cody North (assessable - \$133,576.29);
- (c) Contract No. 7050, Congdon Park Central (assessable - \$183,681.58) and Valley Drive (assessable - \$56,160.45);
- (d) Contract No. 7051, Congdon Park Lower West (assessable - \$197,076.05);
- (e) Contract No. 7052, East Hillside Upper West (assessable - \$60,421.00);
- (f) Contract No. 7053, Hunters Park West (assessable - \$186,654.64);
- (g) Contract No. 7054, Lakeside Central (assessable - \$202,258.27);

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

(h) Contract No. 7055, Woodland West Central (assessable - \$195,646.01); are hereby confirmed.

Resolution 02-0167 was unanimously adopted.
Approved March 11, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Cellular One Duluth/Superior (\$86,400) and Unicel (\$9,600) be and hereby is awarded a contract for furnishing and delivering cellular air time service and hardware for the various departments/divisions in accordance with specifications on its low specification bids for a total amount of \$96,000, terms net 30, FOB job sites, various funds, depts./agencies, organizations and objects.

Resolution 02-0169 was unanimously adopted.
Approved March 11, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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 in accordance with specifications on its low specification bid of \$30,000, terms net 30, FOB destination, \$25,000 payable out of Fleet Fund 0660, Dept./Agency 015, Organization 1560, Object 5221 and \$5,000 payable out of Fleet Fund 0660, Dept./Agency 015, Organization 1560, Object 5404.

Resolution 02-0170 was unanimously adopted.
Approved March 11, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Graybar Electric Company, Inc., be and hereby is awarded a contract for furnishing and delivering miscellaneous electrical supply items for facilities management and engineering division in accordance with specifications on its low specification bid of \$26,000, terms net 30, FOB destination, \$12,000 payable out of General Fund 0100, Dept./Agency 015, Organization 2500, Object 5220 and \$14,000 payable out of General Fund 0100, Dept./Agency 500, Organization 1930, Object 5247.

Resolution 02-0171 was unanimously adopted.
Approved March 11, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

DULUTH PUBLIC ARTS COMMISSION - Amy Feddema for a term expiring September 30, 2004, replacing Debra Hannu.

Resolution 02-0158 was unanimously adopted.
Approved March 11, 2002
GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BY COUNCILOR STEWART:

RESOLVED, that the proposed specifications for the new civil service classification of customer relations supervisor, which were approved by the civil service board on December 4, 2001, and which are filed with the city clerk as Public Document No. 02-0311-16, are approved; that said classification shall be subject to the city's collective bargaining unit with its supervisory unit employees; and that pay range for said classification shall be Range 1045 - 1055, \$3,594 to \$4,582 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 02-0168 was unanimously adopted.

Approved March 11, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Hurst & Hendricks, Ltd., for the sum of not to exceed \$5,600, from Community Development Fund 0262, Ag. 625, Obj. 6509, for providing certain structural engineering and C.A.D.D. drafting services to the city of Duluth in connection with Grant Recreation Center additions and alterations, 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. 02-0311-17.

Resolution 02-0142 was unanimously adopted.

Approved March 11, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Gausman & Moore, Inc., for the sum of not to exceed \$7,000, from Community Development Fund 0262, Ag. 625, Obj. 6509, for providing certain mechanical and electrical engineering services to the city of Duluth in connection with Grant Recreation Center additions and alterations, 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. 02-0311-18.

Resolution 02-0143 was unanimously adopted.

Approved March 11, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Donald Holm Construction Company, Inc., be and hereby is awarded a contract for construction of Lincoln Park pavilion restoration for the architect division in accordance with specifications on its low specification bid of \$109,400, terms net 30, FOB job site, \$31,195 payable out of Community Development Fund 0262, Dept./Agency 622, Object 6212 and \$78,205 payable out of Community Development Fund 0262, Dept./Agency 623, Object 6309.

Resolution 02-0172 was unanimously adopted.

Approved March 11, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to purchase from the state

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

of Minnesota those tax forfeited parcels of property, as described on Public Document No. 02-0311-19 on file in the office of the city clerk, at their appraised values plus transactions costs, provided that the total sum of these amounts shall not exceed \$60,000 plus assurance fees, deed fees, recording fees, deed taxes and appraisal fees, said sum to be payable from Fund 0100, Agency 015, Org. 2020, Object 5441.

Resolution 02-0173 was unanimously adopted.
Approved March 11, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, that pursuant to Resolution No. 99-0239, 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 February 26, 2002, pursuant to DEDA Resolution No. 02D-07, a copy of which is on file in the office of the city clerk as Public Document No. 02-0311-20, is hereby approved.

Resolution 02-0166 was unanimously adopted.
Approved March 11, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, by Resolution of Intent numbered 02-0123 the council did request the administration to prepare plans and specifications for the construction of 160 feet of low pressure sanitary sewer and 175 feet of water main along Minnesota Avenue beginning at the intersection of Minnesota Avenue and 9th Street and extending northerly (City Job nos. 0212SN and 0212WA) at an estimated cost of \$24,050; and

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

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$24,050, payable from Special Assessment Fund 0410, Agency 038, Organization 5350, Object 5530, and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 02-0164 was unanimously adopted.
Approved March 11, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, by Resolution of Intent numbered 01-0136 the council did request the administration to prepare plans and specifications for the construction of 11th Street Alley sanitary sewer across North 14th avenue East approximately 70 feet to serve properties with street

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

addresses of 1016 and 1018 North 14th Avenue East (City Job No. 0198SN) at an estimated cost of \$16,800; and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; proper notice has been sent to the benefitting property owners; the special assessment board has 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 \$16,800, payable from Special Assessment Fund 0410, Agency 038, Organization 5351, Object 5530, and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 02-0165 was unanimously adopted.

Approved March 11, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are authorized to execute the grant extension agreement filed as Public Document No. 02-0311-21 accepting \$150,050 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 in the grant period from January 1, 2002, to December 31, 2003.

BE IT FURTHER RESOLVED, all revenues from the grant shall be deposited in Fund 0215, Agency 200, Org. 2466, Revenue Source 4230.

Resolution 02-0162 was unanimously adopted.

Approved March 11, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, the proper city officers are hereby authorized and directed to execute an amendment (Public Document No. 02-0311-22) to Agreement No. 18812 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, 2002, through December 31, 2002.

RESOLVED FURTHER, that monies collected under said contract shall be deposited in Federal Program Fund 0272, Dept./Agency 031, Organization 6302.

Resolution 02-0134 was unanimously adopted.

Approved March 11, 2002

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 02-0157, by Councilor Stewart, confirming appointment of Robert Johnson to tree commission replacing Harold Frederick, was introduced for discussion.

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

Yeas: Councilors Bergson, Gilbert, Hogg, Stenberg, Stewart, Stover and President Ness -- 7

Nays: Councilor Stauber -- 1

Absent: Councilor Atkins -- 1

- - -

Resolution 02-0160, by Councilor Stenberg, vacating 51st Avenue West north of Wadena Street, Wadena Street Alley north of Lot 32, Block 171 and north of Lots 4-9, Block 182 (Menard, Inc.), was introduced for discussion.

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

- - -

Resolution 02-0163, by Councilor Stenberg, requesting the board of county commissioners of St. Louis County to reclassify from conservation to nonconservation and to offer for sale certain tax forfeited parcels now withheld from sale in conservation, was introduced for discussion.

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

- - -

Resolution 02-0174, by Councilor Stover, memorializing the recommendation of the city council for the comprehensive planning process, was introduced for discussion.

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

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR STENBERG

02-007 - AN ORDINANCE PERTAINING TO ZONING REGULATIONS; REVISING THE PROCEDURES FOR CREATING AND AMENDING DISTRICT BOUNDARIES AND REGULATIONS; AMENDING SECTIONS 50-114, 50-117, AND REPEALING 50-118 IN ITS ENTIRETY TO THE DULUTH CITY CODE 1959, AS AMENDED.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR HOGG

02-005 (9526) - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2001 INCREASING THE BUDGET USING UNDESIGNATED, UNRESERVED FUND BALANCE 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.

- - -

BY COUNCILOR STENBERG

02-006 - AN ORDINANCE AMENDING SECTIONS 50-1, 50-35, 50-56, 50- 68 AND 50-72 OF THE DULUTH CITY CODE, 1959, AS AMENDED RELATING TO BED AND BREAKFAST INNS AND COUNTRY INNS.

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

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

The meeting was adjourned at 8:10 p.m.

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

- - -

ORDINANCE NO. 9526

BY COUNCILOR HOGG:

AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF
DULUTH FOR THE YEAR 2001 INCREASING THE BUDGET USING
UNDESIGNATED, UNRESERVED FUND BALANCE AND APPROPRIATING
MONIES FOR THE PAYMENT OF SUCH INCREASE.

The city of Duluth does ordain:

Section 1. That Ordinance 9471 passed and approved December 18, 2000, is hereby amended by appropriating an additional \$933,000 from the general fund's undesignated, unreserved fund balance as follows:

Department 015 - administrative services	\$177,000
Department 500 - public works	\$345,000
Department 700 - transfers	\$411,000

Section 2. That this ordinance shall take effect immediately upon its passage. (Effective date: March 11, 2002)

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

Yeas: Councilors Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Nays: None -- 0

Absent: Councilor Atkins -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 11, 2002
Approved March 11, 2002
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, March 18, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Hogg, Stenberg, Stover and President Ness -- 6

Absent: Councilors Gilbert, Stauber and Stewart -- 3

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the first time:

BY PRESIDENT NESS

02-009 - AN ORDINANCE PROVIDING FOR LATE HOUR ENTERTAINMENT LICENSES FOR ON SALE ALCOHOLIC BEVERAGE ESTABLISHMENTS; AMENDING SECTIONS 8-40 AND 8-52 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The meeting was adjourned at 7:14 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 25, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Absent: Councilor Gilbert -- 1

- - -

The minutes of the city council meeting held on February 25, 2002, was unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0325-01 Duluth airport authority submitting petition to vacate that portion of Malstrom Street lying west of Stebner Road and the existing utility easements located on Lot 8, Block 4, Airport Division. -- Assessor

02-0325-02 Earl Richards submitting further petitions to:

(a) Construct water, gas and sewer mains to serve Lots 5-10, Block 1, and Lots 1-11, Block 2, Richards First Addition (one signature);

(b) Construct a permanent residential street in Maryland Street from Dodge Avenue to Victoria Street (two signatures). -- Assessor

02-0325-22 Deede Westermann submitting communications regarding the proposed expansion of the West Duluth Menard's (02-0160R and 02-0163R). -- Received

02-0325-21 The following submitting communications regarding the proposed special use permit for townhome development on Anderson Road (02-0179R): (a) Joel Sipress; (b) George Weller. -- Received

- - -

REPORTS OF OFFICERS

02-0325-03 Assessor submitting:

(a) Affidavit of mailing of notice of informational meetings on March 26, 2002, at 4:30 p.m. and 7:00 p.m., and city council public hearing on April 8, 2002, at 7:30 p.m., in the council chamber, regarding the proposed 2003 street improvement program. -- Clerk

(b) Notices of sufficient petitions regarding construction of:

(1) Water, gas and sewer mains to serve Lots 5-10, Block 1, and Lots 1-11, Block 2, Richards First Addition;

(2) Permanent residential street in Maryland Street from Dodge Avenue to Victoria Street. -- Received

02-0325-04 Clerk submitting application to Minnesota gambling control board for exemption from lawful gambling licenses from St. James Catholic Church (raffles) on April 1, July 1, October 1, 2002, and January 1, 2003. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-0325-05 Board of zoning appeals minutes of February 26, 2002, meeting. -- Received

02-0325-06 Duluth/North Shore sanitary district board minutes of March 5, 2002, meeting. -- Received

02-0325-07 Housing and redevelopment authority of Duluth minutes of January 29, 2002: (a) Annual; (b) Regular meetings. -- Received

02-0325-08 Parking commission minutes of February 12, 2002, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Elijah commended the city for the new ideas on improving Lake Place, but he thinks that the area should maintain an atmosphere of quietness.

- - -

At this time, 7:10 p.m., Councilor Gilbert took his seat.

- - -

KL Lewis urged citizens not to complain about the redistricting but to work to turn the city and region around into a vital place to live and work in, and also urged the council not to approve development on the Superfund site, but keep it for shipping.

- - -

RESOLUTIONS TABLED

Councilor Stewart moved to remove Resolution 02-0157, confirming appointment of Robert Johnson to tree commission replacing Harold Frederick, from the table, which motion was seconded and unanimously carried.

Resolution 02-0157 was adopted as follows:

BY COUNCILOR STEWART:

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

TREE COMMISSION - Robert N. Johnson for a term expiring August 31, 2002, replacing Harold Frederick who resigned.

Resolution 02-0157 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart and President Ness -- 8

Nays: Councilor Stover -- 1

Approved March 25, 2002

GARY L. DOTY, Mayor

- - -

Councilor Stenberg moved to remove Resolution 02-0160, vacating 51st Avenue West north of Wadena Street, Wadena Street Alley north of Lot 32, Block 171 and north of Lots 4-9, Block 182 (Menard, Inc.); and Resolution 02-0163, requesting the board of county commissioners of St. Louis County to reclassify from conservation to nonconservation and to offer for sale certain tax forfeited parcels now withheld from sale in conservation, from the table, which motion was seconded and unanimously carried.

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

Deede Westermann, executive director of Spirit Valley Citizens Development Association (SVCNDA), reviewed that they support the Menard's expansion, but there needs to be some resolution on the traffic issues of Wadena Street and the expansion of Menard's parking lot. She voiced the concerns of the neighborhood that the Wadena Street entrance to Menard's would cause too much commercial traffic in the neighborhood and the current houses would be within 50-75 feet of parking lot instead of the 150 feet they currently are. Ms. Westermann continued by saying that they would like to have berms or buffers between the houses and the parking lot to create a sound, wind and debris barrier.

Tom O'Neil, representing Menard's, stated that they are doing their part to redevelop their store and the neighborhood by increasing the store size by 66,000 square feet and employing up to 40 more people. He continued by saying that they have done a good job working with the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

neighborhood through meetings, rerouting the storm water, establishing a landscaping berm along Wadena Street and have made numerous property acquisitions to make this expansion possible.

To questions from Councilor Hogg, Mr. O'Neil replied that all delivery truck traffic would be routed through another entrance into Menard's and should not be a problem for Wadena Street. He also said that in dealing with other communities, neighborhoods have found that it is not convenient to get to their store by closing off the residential street as the most convenient route is direct access to the store.

Stan Kaifers, director of Community Action Duluth, stated that the conversation of this project needs to be pro-neighborhood development, but also pro-community safety as the neighborhood has made a good faith effort in renewing their neighborhood over the past few years and altering the traffic pattern should not be too much to ask.

Helen Lind stated that this neighborhood is unique because the people can walk to the stores and requested the council to find a solution that would not hurt Menard's and help the neighborhood.

Councilor Hogg moved to retable both resolutions with expectations that the city engineering and traffic engineering offices and representatives from SVCNDA and Menard's get together in good faith within the next two weeks to resolve these issues, which motion was seconded and unanimously carried.

- - -

Councilor Stover moved to remove Resolution 02-0125, adjusting customer charges and user fees for the city's appliance servicing and repair service, from the table, which motion was seconded and unanimously carried.

Resolution 02-0125 was adopted as follows:

BY COUNCILOR STOVER:

BE IT RESOLVED, pursuant to Section 48-46 of the Duluth City Code, 1959, as amended, there is established and shall be collected effective May 1, 2002, and thereafter, a customer charge and user charges, based on service rates as follows:

Appliance Service Rates		
For the hours between 8:00 a.m. and 4:30 p.m. Monday-Friday	First 1/2 hour minimum charge	\$30.00
	Each additional 15 minutes	\$15.00
For the hours between 4:30 p.m. and 12:00 a.m. Monday-Friday (including holidays) and for the hours between 8:00 a.m. and 12:00 a.m. Saturday and Sunday (including holidays)	First 1/2 hour minimum charge	\$45.00
	Each additional 15 minutes	\$22.50
For the hours between 12:00 a.m. and 8:00 a.m. Monday-Sunday (including holidays)	First hour minimum charge	\$90.00
	Each additional 15 minutes	\$22.50
A no show fee of the first half hour or hour minimum fee shall be collected when a customer does not show up for a service appointment if the customer does not call to cancel the appointment at least 1/2 hour before the time of the appointment.		

The appliance service rates in this resolution will go into effect after all utility customers have received notification of this increase in their monthly statements.

BE IT FURTHER RESOLVED that previous appliance service rates set in Resolution 95-1071 are rescinded as of May 1, 2002.

Resolution 02-0125 was unanimously adopted.

Approved March 25, 2002

GARY L. DOTY, Mayor

- - -

Councilor Stover moved to remove Resolution 02-0174, memorializing the recommendation of the city council for the comprehensive planning process, from the table, which motion was seconded and unanimously carried.

Resolution 02-0174 was adopted as follows:

BY COUNCILOR STOVER:

WHEREAS, the Duluth City Council continues to be committed to timely completion of our city's comprehensive plan and, along with the city administration, wishes to find ways to turn the parting of consultant Smith Group JJR into beneficial action; and

WHEREAS, there is a need to reinvigorate Duluth citizens toward more participation in preparation of the plan; and

WHEREAS, it is important to include missing elements of the planning process, including consensus on citywide goals and visions of land use patterns; and

WHEREAS, maximum efficient use of limited city staff requires careful management of the next steps; and

WHEREAS, the council must feel comfortable with the planning process in order to subsequently approve a comprehensive plan.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council strongly suggests that the administration incorporate the following in the next steps toward completing the plan:

(a) Organize a neighborhood/district summit organized by the steering committee and consisting of three to four members of each planning district as well as city staff and members of the steering committee, the city council and CACCP;

(b) Proceed immediately with finding new consultants who could fill the void caused by over-worked staff;

(c) Encourage districts to more deeply involve traditional neighborhood organizations such as community clubs and business, recreational and other groups from within individual neighborhoods;

(d) Find the resources to do the necessary but unfinished basic community data collection and analysis which was scheduled to be completed in September of 2001;

(e) Perform a citywide survey of citizens' desires about alternative citywide land use development patterns and desired future population numbers;

(f) Provide for at least two more citywide interactive citizen public meetings to gain reaction to alternative citywide plan scenarios;

(g) Engage a professional market demand assessment of Duluth's residential, industrial, recreational and retail markets in order to determine how much land in each category we need for the next 20 years;

(h) Staff should produce a detailed work plan for the rest of the six month comprehensive plan project list. The work plan should include the above suggestions and minimize further delays by forming critical paths for performing individual work tasks. The work plan should also describe specific work steps, personnel involved and specific scope of reports for each step.

Resolution 02-0174 was unanimously adopted.
Approved March 25, 2002
GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to execute an administrative services agreement with SuperiorUSA Benefits Corporation to provide communication, implementation and management of a flexible benefits plan for city employees for year 2002, 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. 02-0325-09, on file with the city clerk, at an estimated cost of \$12,352, which shall be paid from the General Fund 0100, Agency 700, Org. 1479.

Resolution 02-0183 was unanimously adopted.
Approved March 25, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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:

Budweiser Players Tournament, Wheeler Field, for May 11 and 12, 2002, with Troy Antonson, manager.

College of St. Scholastica, 1200 Kenwood Avenue, for April 24 and 27, 2002, with Dan Sepion, manager.

Woodland Amateur Hockey Association, 3211 Allendale Avenue, for April 13, 2002, with Dave Anderson, manager.

Resolution 02-0185 was unanimously adopted.
Approved March 25, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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 and on sale wine license for the period ending April 30, 2002, and August 31, 2002, respectively, subject to departmental approvals, the payment of sales and property taxes and further subject to approval of the liquor control commissioner:

TRM, Inc. (Sam's Pizza & Restaurant), 403 North Central Avenue, with Anthony Jerulle, president, Michael Jerulle, vice president, and Richard Chalupsky, secretary, transferred from LGJ, Ltd. (Sam's Pizza & Restaurant), same address.

Resolution 02-0186 was unanimously adopted.
Approved March 25, 2002
GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license and approving the issuance of an on sale wine license for the period beginning May 1, 2002, and ending April 30, 2003, and the period ending August 31, 2002, respectively, subject to departmental approvals and approval of the liquor control commissioner:

Bayfront BBQ, Inc. (Famous Dave's), 355 Lake Avenue South.
Resolution 02-0187 was unanimously adopted.
Approved March 25, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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 renewal for the 2002-2003 license period, subject to departmental approvals and the payment of sales and property taxes:

Order of Owls, Nest #1200, 118 East First Street.
Resolution 02-0188 was unanimously adopted.
Approved March 25, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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

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

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

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

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

Licensee	Gambling site	Date application filed
MLBA Children's Fund	Pioneer Bar	February 27, 2002
Duluth Softball Players Association	Charlies Club	February 22, 2002
Duluth Softball Players Association	Bedrock Bar	February 22, 2002

Resolution 02-0189 was unanimously adopted.
Approved March 25, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Hinckley Chevrolet be and hereby is awarded a contract for furnishing and delivering four unmarked patrol vehicles for the police department in accordance with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

specifications on its low specification bid of \$62,920, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization RS02, Object V204.

Resolution 02-0191 was unanimously adopted.

Approved March 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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 \$66,402.75, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization RS02, Object V210.

Resolution 02-0192 was unanimously adopted.

Approved March 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Runzheimer International be and hereby is awarded a contract for furnishing auto reimbursement program and management services for the fleet services division in accordance with specifications on its low specification bid of \$10,530, terms net, FOB destination, payable out of various funds, depts./agencies, organizations, objects.

Resolution 02-0193 was unanimously adopted.

Approved March 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Johnson-Wilson Constructors be and hereby is awarded a contract for front circulation desk ADA renovation at the main library for the city architect in accordance with specifications on its low specification bid of \$188,000, terms net 30, FOB job site, \$84,384 payable out of Capital Improvements Fund 0450, Dept./Agency 015, Organization 1999, Object C917 and \$103,616 payable out of Capital Improvements Fund 0450, Dept./Agency 015, Organization 2002, Object C210.

Resolution 02-0194 was unanimously adopted.

Approved March 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

SANITARY SEWER BOARD of the Western Lake Superior Sanitary District

William C. Majewski for a term expiring July 1, 2004, replacing Vicki Spragg who resigned.

Resolution 02-0198 was unanimously adopted.

Approved March 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of a utility easement legally described as the westerly four feet of the easterly ten feet of Lot 2, Vermilion Road Division; and

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

WHEREAS, the city planning commission approved the vacation petition at its March 12, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the westerly four feet of the ten foot wide utility easement described above and as more particularly described on Public Document No. 03-0325-10.

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

Resolution 02-0180 was unanimously adopted.

Approved March 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officials are hereby authorized to execute a grant agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 02-0325-11, with the Minnesota department of natural resources, pursuant to its coastal zone management program, in the amount of \$18,000, payable to Fund 0210, Agency 030, Org. 2177, to defray 60 percent of the cost of developing a land use plan for Park Point.

FURTHER RESOLVED, that the Duluth City Council authorizes an in-kind match valued at \$12,000 to be provided through staff salaries, supplies and printing costs.

FURTHER RESOLVED, that the proper city officials are authorized to execute such agreements as are necessary to implement the land use plan for Park Point on behalf of the city.

Resolution 02-0184 was unanimously adopted.

Approved March 25, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement an amendment to US EDA public works construction Grant No. 06-01-04577 grant agreement, substantially in the form and containing the terms set out in Public Document No. 02-0325-12 on file with the city clerk.

Resolution 02-0200 was unanimously adopted.

Approved March 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 01-0780 is amended to authorize the proper city officers to accept an additional subgrant of \$272,787.57 from the Minnesota department of public safety, division of emergency management, acting in conjunction with the federal emergency manage-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

ment agency, and to execute the subgrant contract, filed as Public Document No. 02-0325-13, for the city of Duluth storm and flood related infrastructure repairs.

RESOLVED FURTHER, that grant monies accepted pursuant to this resolution shall be deposited as follows:

\$142,245.25 into 0100-500-1920-4210;

\$ 19,449.75 into 0530-500-4210;

\$ 74,622.75 into 0535-500-4210;

\$ 36,469.82 into 0510-500-4210.

Resolution 02-0177 was unanimously adopted.

Approved March 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 01-0836 is amended to authorize the proper city officers to accept an additional subgrant of \$2,394.50 from the Minnesota department of public safety, division of emergency management, acting in conjunction with the federal emergency management agency, and to execute the subgrant contract, filed as Public Document No. 02-0325-14, for the city of Duluth storm cleanup costs at the Enger Park golf course.

RESOLVED FURTHER, that grant monies accepted pursuant to this resolution shall be deposited into General Fund 0100, Agency 500, Org. 1920.

Resolution 02-0178 was unanimously adopted.

Approved March 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to modify that certain agreement on file in the office of the city clerk as Public Document No. 01-0611-21 with the Human Development Center (HDC) for the sale of the old East Hillside fire hall to HDC by reducing the cash payment requirement at closing by \$11,500 and by increasing the amount of the forgivable note and mortgage securing HDC's debt to the city resulting from said sale by \$11,500.

Resolution 02-0182 was unanimously adopted.

Approved March 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Hinckley Chevrolet be and hereby is awarded a contract for furnishing and delivering four vans for the utility operation division in accordance with specifications on its low specification bid of \$70,817.46, terms net 30, FOB destination, \$15,933.93 payable out of Water Fund 0510, Dept./Agency 500, Organization 1905, Object 5580 and \$54,883.53 payable out of Gas Fund 0520, Dept./Agency 500, Organization 1905, Object 5580.

Resolution 02-0199 was unanimously adopted.

Approved March 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the police chief is hereby authorized to execute an addendum to an

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

agreement with the St. Louis County sheriff and Arrowhead Regional Corrections, designated Public Document No. 99-0524-27, providing for reimbursement of the sheriff for certain identification services, which addendum is on file in the office of the city clerk as Public Document No. 02-0325-15, at a cost to the city of \$12,720 in 2002, which shall be payable from the General Fund 0100-200-1610-5319.

Resolution 02-0175 was unanimously adopted.
Approved March 25, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the city of Duluth through the Duluth public library hereby accepts a grant in the amount of \$2,000 from the Minnesota humanities commission to fund the "To Kill A Mockingbird" community reading project, said grant to be deposited into Fund 0100, Agency 300, Org. 2310 miscellaneous grants.

FURTHER RESOLVED, that the Duluth City Council authorizes a match in the amount of \$6,891 to be provided through library salaries and printing costs.

FURTHER RESOLVED, that the director of the Duluth public library is 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. 02-0325-16 with the Minnesota humanities commission related to the above-referenced community reading project.

Resolution 02-0176 was unanimously adopted.
Approved March 25, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to execute a memorandum of understanding with DEDA, substantially in the form of that on file in the office of the city clerk as Public Document No. 02-0325-17, which allows DEDA to participate during 2002 in the city's self insurance fund program; funds will be deposited in 0605-036-1656.

Resolution 02-0181 was unanimously adopted.
Approved March 25, 2002
GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR HOGG:

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

WHEREAS, the city desires to maintain its tourist related facilities by repairing the storm damage to the Lakewalk.

NOW, THEREFORE, BE IT RESOLVED, that \$140,000 be allocated to the repair of storm damage to the Lakewalk from the unreserved, undesignated fund balance in the fund.

Resolution 02-0196 was unanimously adopted.
Approved March 25, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

RESOLVED, that the appointment by Mayor Doty of Maureen Bye as the equal opportunity representative-human rights officer of the city is hereby confirmed.

Resolution 02-0203 was unanimously adopted.

Approved March 25, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0179, by Councilor Stenberg, granting a special use permit for a low density, planned townhome development to Robert Arch and Kent Hoffman for property located at 600 feet north of 1405 Anderson Road, east of properties located between 3926-4026 Trinity Road and west of properties located between 801-901 Anderson Road., was introduced for discussion.

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

KL Lewis urged the council to consider the stipulations from the planning commission and let the homeowners who are affected keep the property green.

Kent Hoffman stated he has been working to learn of the neighborhood's concerns so that this project can be completed the best way possible for all parties concerned.

To Councilor Stewart's questioning, Mr. Hoffman replied that access to green space by the neighborhood might not be best through the development, but instead from Anderson Road off the highway easement that runs along the north side of the highway. He also stated that while he is not opposed to putting sidewalks in the development, there are no sidewalks on Anderson Road for the new sidewalks to connect with.

Councilor Bergson stated that, after talking to several people in the neighborhood, he has found that the neighbors do not like the project and are worried about the increased traffic, along with the new problems that this development would bring such as clean up and promises that are not kept.

Councilors Atkins, Gilbert, Stewart and Stover expressed their support for the project, stating that this project should not be compared to a commercial development in that area and this development will be a benefit to the city by filling the need of low maintenance and affordable housing for senior citizens and families that are downsizing to a smaller home.

Resolution 02-0179 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, Robert Arch and Kent Hoffman have submitted to the city council a request for a special use permit for a low density planned development, in accordance with Section 50-36.1 of the Duluth City Code, on property described as Blocks 1-4, Randall's Division, and located 600 feet north of 1405 Anderson Road, east of properties located between 3926 - 4026 Trinity Road and west of properties located between 801-901 Anderson Road; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

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

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Robert Arch and Kent Hoffman to allow for a low density planned development consisting of 38 townhouse units on property described as Blocks 1-4, Randall's Division, subject to the following condition:

That the project be developed in significant compliance with the plans and document submitted entitled "AUTUMN LEAVES TOWNHOMES, DULUTH, MN" dated January 30, 2002,

as identified as Public Document No. 02-0325-18; and that prior to the issuance of any permits the following procedures and/or documents be submitted and when necessary, additional permits completed:

- (a) A wetland delineation be submitted to the planning division to verify integration with the submitted project design, and that the project design be modified as necessary to comply with Chapter 51 of the Duluth City Code and the Minnesota Wetland Conservation Act;
- (b) The applicants petition for and obtain council approval of the vacation of the current street and alley easements;
- (c) A stormwater management plan be approved in writing by the city engineer;
- (d) The project obtain and comply with Minnesota pollution control agency-national pollution discharge elimination system permits;
- (e) That the development plan provide a sidewalk on one side of Bessel Avenue from Anderson Road to the intersection of the loop street within the project and that sidewalks be provided on both sides of the loop street within the project;
- (f) That the permittee provide a landscape planting plan for the 660 feet of roadway from Anderson Road to the project property;
- (g) That the special use permit shall expire ten years from the date of approval of the city council resolution unless the project is completed prior to that date. If the project has not been completed by that time, the permit will expire unless the developer or homeowners association seeks renewal or amendment of the plan.

Resolution 02-0179 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Nays: Councilor Bergson -- 1

Approved March 25, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0190, by Councilor Stover, adopting the wastewater collection system facility plan for the Morgan Park area, was introduced for discussion.

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

Debbie Isabell, Bill Majewski and Keith Easty urged the council to support the resolution and thanked the city for their swiftness in creating a plan and moving forward with this project.

President Ness thanked city staff for their help and also thanked the residents of Morgan Park for their energy on this project.

Resolution 02-0190 was adopted as follows:

BY COUNCILOR STOVER:

WHEREAS, Camp, Dresser & McKee has developed a facility plan for the wastewater collection system for the Morgan Park area; and

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 facility 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 facility plan for the Morgan Park area, which is on file in the office of the city clerk as Public Document No. 02-0325-19.

Resolution 02-0190 was unanimously adopted.

Approved March 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to enter into Mn/DOT Agreement No. 83047, filed as Public Document No. 02-0325-20, with the state of Minnesota, department of transportation, for the following purposes:

to provide for payment by the state to the city of the state's share of the costs, estimated to be \$140,000, of the Lakewalk repair construction and other associated construction to be performed adjacent to Trunk Highway No. 35 from the Northland Vietnam Veterans Memorial to the malt shoppe within the corporate city limits under State Project No. 6982-280.

RESOLVED FURTHER, that the state's share of the construction costs shall be deposited in Fund 0450 Capital Improvements; Org. 2002; Object C218.

Resolution 02-0195 was unanimously adopted.

Approved March 25, 2002

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR STENBERG

02-006 - AN ORDINANCE AMENDING SECTIONS 50-1, 50-35, 50-56, 50- 68 AND 50-72 OF THE DULUTH CITY CODE, 1959, AS AMENDED RELATING TO BED AND BREAKFAST INNS AND COUNTRY INNS.

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

Councilor Stenberg moved to return the ordinance to the planning commission, which motion was seconded and unanimously carried.

- - -

The following entitled ordinance was read for the first time:

BY COUNCILORS STEWART AND GILBERT

02-010 - AN ORDINANCE ESTABLISHING AN AMERICAN INDIAN COMMISSION; ADDING A NEW ARTICLE XXVIII TO CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STENBERG

02-007 (9527) - AN ORDINANCE PERTAINING TO ZONING REGULATIONS; REVISING THE PROCEDURES FOR CREATING AND AMENDING DISTRICT BOUNDARIES AND REGULATIONS; AMENDING SECTIONS 50-114, 50-117, AND REPEALING 50-118 IN ITS ENTIRETY TO THE DULUTH CITY CODE 1959, AS AMENDED.

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

- - -

BY PRESIDENT NESS

02-009 (9528) - AN ORDINANCE PROVIDING FOR LATE HOUR ENTERTAINMENT LICENSES FOR ON SALE ALCOHOLIC BEVERAGE ESTABLISHMENTS; AMENDING SECTIONS 8-40 AND 8-52 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Elijah stated that it is irresponsible for bars to allow people to get drunk and come back the next night and get drunk again. He added that adults need to educate young people that they do not need cigarettes and alcohol for self esteem.

Scott Lunt expressed his support for this ordinance as a way for the young people of Duluth to display their musical talents and also to keep the young people in Duluth.

KL Lewis urged support of this ordinance as it is a great venue for a growing number of performing artists in Duluth and will prevent drunk drivers from leaving the bars at closing.

President Ness moved to amend the ordinance by inserting Section 8-19 of the Duluth City Code and adding the following language to the end of subparagraph (a):

“except that in the case of premises holding a late hour entertainment license, no person shall consume or furnish to another person any alcoholic beverage from 30 minutes after sales of alcoholic beverages on such premises are required by law to cease until the time at which sales of alcoholic beverages on such premises are next allowed by law to begin,” which motion was seconded and unanimously carried.

Councilor Stewart stated that this ordinance will help create a thriving night culture for the citizens of Duluth and reminded the council that there are young, new musicians coming out of this area getting national press.

Councilor Stauber expressed his concern that this will be an enforcement problem for the police. He also voiced his concern on the traffic patterns that may develop between Superior and Duluth and the surrounding towns after 1:00 a.m. Councilor Stauber stated he thinks that the majority of Duluthians do not like this ordinance.

Councilors Stover, Bergson and Hogg stated that this ordinance would help stop the flow of traffic to Superior after the bars close and that, if it does not work, the ordinance can be changed.

President Ness explained that the purpose of this ordinance is to provide establishments with the option of late night entertainment without the alcohol, plus giving people a safe option of having food and music with friends instead of looking for alcohol in Superior or a neighborhood keg party after the bars close.

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stenberg, Stewart, Stover and President Ness -- 8

Nays: Councilor Stauber -- 1

The meeting was adjourned at 8:50 p.m.

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

ORDINANCE NO. 9527

BY COUNCILOR STENBERG:

AN ORDINANCE PERTAINING TO ZONING REGULATIONS;
REVISING THE PROCEDURES FOR CREATING AND AMENDING
DISTRICT BOUNDARIES AND REGULATIONS; AMENDING SEC-
TIONS 50-114, 50-117, AND REPEALING 50-118 IN ITS ENTIRETY
TO THE DULUTH CITY CODE 1959, AS AMENDED.

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Section 1. That Section 50-114 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-114. Authority of city council.

Whenever justified or required by the public necessity, convenience, general welfare or good zoning practice and after public hearing, the city council may, by ordinance, amend the regulations set forth in this Chapter for the districts established on the zoning district map in accordance with the procedure set forth in this Article. Except as otherwise provided by law, and subject to the requirements of this Article, the adoption or amendment of the zoning ordinance shall be by a majority vote of all members of the city council. Before voting on an amendment, supplement or change to the district boundary lines or regulations, the city council shall obtain a report thereon from the city planning commission.

Section 2. That Section 50-117 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-117. Written consent of property owner required; exception.

Except as otherwise provided by law, the adoption or amendment of any district boundaries from residential to either commercial, industrial or manufacturing shall be made in conformance with this Section and only after there shall have been filed in the office of the city clerk a written consent of the owners of 2/3 of the several descriptions of real estate situated within 100 feet of the total contiguous descriptions of real estate held by the same owner or any party purchasing any such contiguous property within one year preceding the request and after the affirmative vote in favor thereof by a majority of the city council. The city council may, by a 2/3 vote of its members, after hearing, adopt a new zoning ordinance without such written consent whenever the planning commission shall have made a survey of the whole area of the city or of an area not less than 40 acres, within which the new ordinance or the amendments or alterations of the existing ordinance would take effect when adopted, and shall have considered whether the number of descriptions of real estate affected by such changes and alterations renders the obtaining of such written consent impractical, and the planning commission shall report in writing as to whether in its opinion the proposals of the city council in any case are reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use, and shall have conducted a public hearing on such proposed ordinance, changes or alterations, and shall have reported to the city council its findings and recommendations in writing.

Section 3. That Section 50-118 of the Duluth City Code, 1959, as amended, be repealed in its entirety.

Section 4. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 5, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 25, 2002
Approved March 25, 2002
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9528

BY PRESIDENT NESS:

AN ORDINANCE PROVIDING FOR LATE HOUR ENTERTAINMENT LICENSES FOR ON SALE ALCOHOLIC BEVERAGE ESTABLISHMENTS; AMENDING SECTIONS 8-19, 8-40 AND 8-52 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 8-19 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-19. Hours for consumption, service, etc., of alcoholic beverages on on sale licensed premises.

(a) On any licensed on sale premises, no person shall consume or furnish to another person any alcoholic beverage in that period from one hour after sales of alcoholic beverages on such premises are required by law to cease until the time at which sales of alcoholic beverages on such premises are next allowed by law to begin, except that in the case of premises holding a late hour entertainment license, no person shall consume or furnish to another person any alcoholic beverage from 30 minutes after sales of alcoholic beverages on such premises are required by law to cease until the time at which sales of alcoholic beverages on such premises are next allowed by law to begin;

(b) No person in charge of such licensed on sale premises shall allow another person to consume any alcoholic beverages on such premises in that period from one hour after sales of alcoholic beverages on such premises are required by law to cease until the time at which sales of alcoholic beverages on such premises are next allowed by law to begin;

(c) The person in charge of such on sale premises shall not allow alcoholic beverages in glasses, cups or containers used for drinking, or in opened and uncorked cans or bottles on such licensed premises during such times when consumption of alcoholic beverages on such premises is prohibited by this Section. For the purposes of this Section, open bottles of intoxicating liquor stored behind the bar with pouring spout stoppers shall be considered corked bottles.

Section 2. That Section 8-40 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-40. Dancing and late hours entertainment licenses for liquor establishments.

(a) No person licensed to sell alcoholic beverages on sale shall allow any dancing participated in by the public on said premises unless such person has first received a license pursuant to this Section;

(b) A dancing license shall entitle the license holder to have dancing participated in by the public on the licensed premises. The fee for a dancing license is \$900 per year if the applicant holds an on sale intoxicating liquor license and \$750 if the applicant holds a wine or 3.2 percent malt liquor license. The fee shall be prorated in the same manner as liquor licenses;

(c) Notwithstanding any provision of this Section or Chapter to the contrary, clubs and congressionally chartered veterans organizations that are open

only to members and bona fide guests of members may have dancing participated in by members and guests, without securing a dancing license;

(d) Notwithstanding any provision of this Section or Chapter to the contrary, seasonal dancing licenses covering the months of May through August may be issued to any on sale licensee for a fee of \$300;

(e) Notwithstanding any provision of this Section or Chapter to the contrary, late hours entertainment licenses may be issued to establishments holding on sale alcoholic beverage licenses if they meet the criteria set forth in this paragraph. Such license shall allow the establishment to have music and entertainment, including dancing by patrons, after the hours when sales of alcoholic beverages are required to cease. The fee for such license shall be \$200. Every application for such license shall be investigated by the police department and alcohol, gambling, and tobacco commission. No license shall be issued in an area or under circumstances where the late hours entertainment would disturb adjoining properties or the surrounding neighborhood. In their investigation and recommendations, the police and alcohol, gambling and tobacco commission shall consider, without limitation:

(1) The proximity of the establishment to residences and residentially zoned property;

(2) The character of the neighborhood surrounding the establishment;

(3) Parking facilities at the establishment;

(4) The acoustic properties of the building housing the establishment;

(5) The past record of the establishment; and

(6) Any past complaints from adjoining property owners.

The license may contain conditions and limitations concerning types of entertainment and hours of entertainment. No entertainment shall be allowed after 3:00 a.m. All establishments allowing late hours dancing must have a dancing license as required by paragraphs (a) and (d) of this Section.

Section 3. That Section 8-52 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-52. Terms and conditions of on sale licenses.

On sale intoxicating and nonintoxicating liquor licenses shall be issued subject to the following terms and conditions:

(a) No on sale license shall be granted to any applicant or for any premises if, in the judgment of the city council, the operations of the proposed establishment are likely to become a public nuisance or detrimental to public morals;

(b) No dancing shall be conducted on the licensed premises between the hours of 1:00 a.m. and 8:00 a.m. on any day, unless the establishment has been granted a late hours entertainment license under the provisions of Section 8-40 of this Chapter;

(c) The chief of police, under the direction of the administrative assistant, shall designate a suitable person to act as an officer of the law on the licensed premises during the hours when dancing is conducted on such premises. The fees of such person or officer shall be paid by the licensee. In case any person not a public officer shall be designated as such officer of the law, the person to whom

such permit has been issued shall be responsible for the officer's acts and conduct. There shall be no liability for the acts and conduct of the designated officer on the part of any city employee designating such officer under the provisions of this Division.

Section 4. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 2, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stenberg, Stewart, Stover and President Ness -- 8

Nays: Councilor Stauber -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 25, 2002
Approved March 25, 2002
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, April 1, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Absent: Councilor Gilbert -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0401-01 Blake Cazier submitting communication regarding materials to be used in contract to repair the Lakewalk (02-0205R). -- Received

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR ATKINS:

RESOLVED, that Northland Constructors of Duluth, LLC, be and hereby is awarded a contract for the Lakewalk repairs from the war memorial to the malt shoppe for the city architect division in accordance with specifications on its low specification bid of \$201,813.90, terms net 30, FOB job site, payable out of Capital Improvements Fund 0450, Dept./Agency 015, Organization 2002, Object C218.

Resolution 02-0205 was unanimously adopted.

Approved April 1, 2002

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 7:02 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 8, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stewart, Stover and President Ness -- 8

Absent: Councilor Stenberg -- 1

- - -

The minutes of the city council meetings held on March 11 and 18, 2002, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0408-01 Robert Smith, et al. (12 signatures), requesting withdrawal of petition (Public Document No. 01-1203-01) to extend the public sewer main to serve properties located on Woodland Avenue north of the Pleasant View Road intersection; and submitting new petition to extend sewer main to serve properties with plat and parcels 2720-24, 2720-27, 2720-30, 2720-31, 2720-33, 2720-36, 2720-37, 2720-34, located on Woodland Avenue north of the Pleasant View Road intersection. -- Assessor

02-0408-02 Minnesota state auditor submitting Lake Superior Center authority audit report for the years ended December 31, 2000 and 2001. -- Received

02-0408-11 Olafson-Genereau Realty Company submitting communication regarding the proposed increase of housing code enforcement and rental housing licensing fees (02-0224R).-- Received

- - -

REPORTS OF OFFICERS

02-0408-03 Assessor submitting:

(a) Affidavit of mailing of notice of public hearing of the special assessment board on April 9, 2002, in Room 106A, City Hall, at 4:00 p.m., regarding the proposed improvement of Maryland Street from Dodge Avenue to Victoria Street. -- Clerk

(b) Letters of sufficiency of petitions to:

(1) Extend the public sewer main to serve properties located on Woodland Avenue north of the Pleasant View Road intersection; and submitting new petition to extend sewer main to serve properties with plat and parcels 2720-24, 2720-27, 2720-30, 2720-31, 2720-33, 2720-36, 2720-37, 2720-34, located on Woodland Avenue north of the Pleasant View Road intersection;

(2) Vacate that portion of Malstrom Street lying west of Stebner Road and the existing utility easements located on Lot 8, Block 4, Airport Division. -- Received

02-0408-04 Attorney submitting use and occupancy permit granting Larry Beaumont permission to construct a driveway and two parking spaces on city property adjacent to property located at 610 North Fifth Avenue West, pursuant to Section 2-31 of the Duluth City Code. -- Mayor for execution

02-0408-05 Clerk submitting application to Minnesota gambling control board for exemption from lawful gambling license from Duluth-Superior Area Educational Television Corporation - WDSE (raffle) on June 8, 2002. -- Received

02-0408-06 Community development and housing division submitting:

(a) HRA housing rehabilitation report for February 2002;

(b) HUD-funded CD program quarterly status report for October-December 2001;

- (c) 2001 housing indicator report. -- Received
02-0408-07 Parks and recreation director submitting Lake Superior zoological society minutes of January 23, 2002, meeting. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

- 02-0408-08 Duluth airport authority minutes of February 19, 2002, meeting. -- Received
02-0408-09 Duluth transit authority: (a) Minutes of January 30, 2002, meeting; (b) Financial statement summary for January 2002. -- Received
02-0408-10 Planning commission minutes of February 27, 2002, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Rebecca Larmar, representing the Safe and Humane Circus Coalition of Minnesota, noted that there are concerns over children and circus personal that are injured from the exotic animal acts, the interspecies transmission of tuberculosis and the social consequences of exposing children to the practice of exploiting animals for fun. She requested that the ordinance, in the materials she presented (Public Document No. 02-0408-25), banning exotic animal acts from appearing in the city be adopted.

- - -

RESOLUTIONS TABLED

Councilor Stauber moved to remove Resolution 02-0160, vacating 51st Avenue West north of Wadena Street, Wadena Street Alley north of Lot 32, Block 171, and north of Lots 5-10, Block 182 (Menard, Inc.), introduced by Councilor Stenberg, from the table, which motion was seconded and unanimously carried.

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

Deede Westermann, executive director of Spirit Valley Citizens Neighborhood Development Association (SVCNDA), stated that SVCNDA supports the resolution, noting that a memo of understanding has been reached (Public Document No. 02-0408-12).

Resolution 02-0160 was adopted as follows:

BY COUNCILOR STAUBER (introduced by Councilor Stenberg):

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of 51st Avenue West north of Wadena Street, Wadena Alley north of Lot 32, Block 171, and north of Lots 5-10, Block 182 legally described as:

(a) Alley adjoining Lot 32, Block 171 and Lot 27, Block 171, West Duluth Seventh Division;

(b) Alley adjoining Lots 5-10, Block 182 and Lot 4, Block 182, West Duluth Seventh Division;

(c) 51st Avenue West adjoining Lot 28, Block 171 and Lot 5, Block 182, West Duluth Seventh 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 February 12, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the street and alleys described above and as more particularly described on Public

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Document No. 02-0408-12.

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

Resolution 02-0160 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

Councilor Stauber moved to remove Resolution 02-0163, requesting the board of county commissioners of St. Louis County to reclassify from conservation to nonconservation and to offer for sale certain tax forfeited parcels now withheld from sale in conservation, introduced by Councilor Stenberg, from the table, which motion was seconded and unanimously carried.

Resolution 02-0163 was adopted as follows:

BY COUNCILOR STAUBER (introduced by Councilor Stenberg):

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

File No.	Applicant	Legal Description	Location
01164	Menard, Inc.	West Duluth Seventh Addition (010-4530-02210 and 010-4530-02220) Block 182, Lots 7, 8, 9	north side of Wadena Street, west of 51st Avenue West
02007	St. Louis County land department	Central Acres Second Division (010-0400-00770) Block 5, north 1/2 of Lot 8	south side of Myrtle Street between Myrtle Place and Stroll Avenue

Resolution 02-0163 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR ATKINS:

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:

Twin Ports Boxing, Inc. (Horton's Twin Ports Boxing & Fitness Club), 332 West Michigan Street, for April 13, 20 and May 4, 2002, with Chuck Horton, manager.

Resolution 02-0213 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officials are hereby authorized to enter into a 20 year lease, a copy of which is on file in the office of the city clerk as Public Document No. 02-0408-13, with the Franklin Foods leasing to that company vacant, city-owned property located at 20th Avenue West and First Street for storage in conjunction with its business for the rental specified in the agreement to be payable to Fund 0100, Agency 015, Org. 1515, Revenue Source 4613.

Resolution 02-0222 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that MacQueen Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering a street sweeper, three-wheel Elgin, Model Pelican SE2002, for the street maintenance division in accordance with specifications on its low specification bid of \$116,687.79, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization RS02, Object V209.

Resolution 02-0226 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

COMMUNITY DEVELOPMENT COMMITTEE - Wallace Pfister (West Duluth) for a term expiring March 1, 2005, replacing Rudy Anderson who had resigned.

Resolution 02-0208 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

HOUSING AND REDEVELOPMENT AUTHORITY - Glenn Fitzgerald to a term expiring January 2, 2007, replacing Edith Bubl.

Resolution 02-0209 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

DULUTH ECONOMIC DEVELOPMENT AUTHORITY - Ken Hogg (council) for a term expiring April 27, 2008.

Resolution 02-0211 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

SPECIAL BOARD OF REVIEW - Barbara Fischer (real property valuations) for a term expiring July 31, 2003.

Resolution 02-0223 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, Patrick and Terry Conlin have submitted to the city council a request for a special use permit for a residential rooming house in an R-2 two family zone on property described as Lot 7, Block 6, Highland Park Addition and located at 2128 East Fourth 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 recommendation for denial to the city council; and

WHEREAS, the recommendation of denial was made because of the city planning commission's findings that appropriate safeguards could not be identified 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 to allow for the operation of a residential rooming house in an R-2 two family zone on property located at 2128 East Fourth Street is hereby denied based on the following findings:

The ordinances governing the application include sections 50-32, et. seq, and 50-68; that compliance with that ordinance requires a finding in accordance with Section 50-32; that the following facts, features or events show compliance:

(a) A hearing before the planning commission on March 27, 2002;
(b) Notice published March 8, 15 and 22, 2002, and mailed to neighbors on March 15, 2002;

(1) Will the proposed special use result in a random pattern of development with little contiguity to existing or programmed development? This request will have some impacts on the neighborhood, however, there is a mix of single family owner occupied and single family rentals in the area. The introduction of a commercial rooming house into the neighborhood will further impact a neighborhood already impacted by "student rental housing";

(2) Will the requested use cause anticipated negative fiscal or environmental impacts upon the community? The conversion of the open rear yard to parking will alter the character of the property and the neighborhood. The increase in runoff from the increased parking area will have an undetermined impact on Oregon Creek;

(3) Will conditions and safeguards protect the comprehensive plan and conserve and protect property and property values in the neighborhood? It does not appear that the necessary off street parking can be met therefore the permit should be denied;

(4) What appropriate conditions and safeguards, including performance bonds and a specified period of time for the permit, are necessary? Requiring an additional third floor exit, sprinklering of the building and a specific permit limitation of not more than eight occupants with the provision that eight off street parking spaces be created and maintained, would be necessary.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Resolution 02-0214 was unanimously adopted.
Approved April 8, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a utility easement legally described as five feet either side of the lot line common to Lots 9 and 10, Block 1, Creekside; and

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

WHEREAS, the city planning commission unanimously approved the easement vacation petition at its March 27, 2002, 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. 02-0408-14.

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 utility easement to be vacated.

Resolution 02-0217 was unanimously adopted.
Approved April 8, 2002
GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

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. 02-0408-15, with the Minnesota department of economic security to provide services under Title I of the Workforce Investment Act, the Minnesota youth program, and the older American program as defined in the local workforce investment plan. The contract begins April 1, 2002, and ends March 31, 2005. Program funds will be accepted upon receipt of notices of funds available and shall be deposited in Fund 0268 for Title I workforce investment act and Minnesota youth program funds and in Fund 0271 for older American program funds.

Resolution 02-0212 was unanimously adopted.
Approved April 8, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to accept a temporary license, a copy of which is on file in the office of the city clerk as Public Document No. 02-0408-16, from the Seaway Port authority of Duluth for the use of 40,000 square feet of Garfield C and D Dock, as depicted on said document, for storage of equipment and materials.

Resolution 02-0202 was unanimously adopted.
Approved April 8, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

WHEREAS, the city of Duluth has determined that the following deficient bridges on the city street system are a high priority and require replacement or rehabilitation within the next five years:

Bridge No.	Road/Street	Estimated Cost	Federal Funds	Local Funds	Bond Funds	Proposed Constr. Year
69J36	Kenwood at Chester Creek	\$325,000	\$0.00	\$ 75,000	\$250,000	2002
L8511	Columbus at Tischer Creek	\$200,000	\$0.00	\$ 40,000	\$160,000	2003
L6122	Superior at Chester Creek	\$320,000	\$0.00	\$ 20,000	\$300,000	2002
69652	Minnesota Slip Bridge	\$600,000	\$0.00	\$300,000	\$300,000	2004
93402	Second Street at Chester Creek	\$400,000	\$0.00	\$ 50,000	\$350,000	2003;

and

WHEREAS, local roads play an essential role in the overall state transportation network and local bridges are the critical component of the local road systems; and

WHEREAS, state support for the replacement or rehabilitation of local bridges continues to be crucial to maintaining the integrity of the local road systems and is necessary for the city to proceed with the replacement or rehabilitation of the high priority deficient bridges described above; and

WHEREAS, the city of Duluth intends to proceed with replacement or rehabilitation of these bridges as soon as possible when state transportation bond funds are available.

BE IT RESOLVED, that the city of Duluth commits that it will proceed with the design and contract documents for these bridges immediately after being notified that funds are available in order to permit construction to take place within one year of notification.

Resolution 02-0204 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, 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. 02-0408-17; payment by the city will be made from the general fund, other functions, Agency 015, Miscellaneous 2020, Object MS14.

Resolution 02-0207 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement (Public Document No. 02-0408-18) between the city of Duluth and the regents of the University of Minnesota for the construction of a sidewalk, street lightings and other improvements along Junction Avenue, and Niagara, Buffalo and St. Marie streets along the northwest perimeter of the UMD campus for a consideration not to exceed \$200,000, to be paid by the regents of the University of Minnesota.

Resolution 02-0225 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to complete bridge rehabilitation; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for the preliminary and final design for the rehabilitation of Bridge No. 91144 over Merritt Creek at 37th Avenue West and Grand Avenue and rehabilitation of Bridge No. 88552 over Miller Creek at West Third Street; 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 \$52,019.20, \$39,014.40 payable from the Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2177, Object 5530, to be reimbursed by municipal state aid turnback fund and \$13,004.80 payable from the Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2178, Object 5530, to be reimbursed by municipal state aid fund.

Resolution 02-0227 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Groebner & Associates, Inc., be and hereby is awarded a contract for furnishing and delivering two six inch valves and two eight inch valves for the utility operations division in accordance with specifications on its low specification bid of \$19,319.10, terms net 30, FOB destination, payable out of Gas Construction Bond Fund 0521, Dept./Agency 500, Object 5532.

Resolution 02-0228 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Fisher Control, c/o Novaspect, be and hereby is awarded a contract for furnishing and delivering two regulator stations for the utility operations division in accordance with specifications on its low specification bid of \$58,135.16, terms net 30, FOB destination, payable out of Gas Construction Bond Fund 0521, Dept./Agency 500, Object 5532.

Resolution 02-0229 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Approved April 8, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Flexible Pipe Tool Company be and hereby is awarded a contract for furnishing and delivering mechanical bucket machine for the utility operations division in accordance with specifications on its low specification bid of \$49,969.80, terms net 30, FOB destination, \$24,984.90 payable out of Sewer Fund 0530, Dept./Agency 500, Organization 1905, Object 5580 and \$24,984.90 payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5580.

Resolution 02-0230 was unanimously adopted.

Approved April 8, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0108 to L.H.B. Architects and Engineers to provide the engineering services required for repair of the eroded shore embankment adjacent to lift station number three at 45th Avenue East and Lake Superior, be amended to increase the amount by \$4,540 for a new total of \$12,097, payable out of Sewer Construction Bond Fund 0531, Dept./Agency 500, Object 5532.

Resolution 02-0231 was unanimously adopted.

Approved April 8, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for year 2002 street improvement of Ramsey North for the engineering division in accordance with specifications on its low specification bid of \$179,827.30, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0205, Object 5530.

Resolution 02-0232 was unanimously adopted.

Approved April 8, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction year 2002 street improvement of Lakeside Central-Two for the engineering division in accordance with specifications on its low specification bid of \$496,682.50, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0204, Object 5530.

Resolution 02-0233 was unanimously adopted.

Approved April 8, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Vogel Paint and Wax Company, Inc., be and hereby is awarded a contract for furnishing and delivering 6,500 gallons of yellow and white traffic marking paint for the maintenance operation division in accordance with specifications on its low specification bid of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

\$31,261.96, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 500, Organization 2020, Object 5226.

Resolution 02-0234 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Tech Sales Company be and hereby is awarded a contract for furnishing and delivering stream monitoring equipment for the utility operation division in accordance with specifications on its low specification bid of \$24,562, terms net, FOB destination, payable out of Special Projects Fund 0210, Dept./Agency 030, Organization 2141, Object 5319; to be reimbursed by EMPACT grant funds.

Resolution 02-0236 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Tech Sales Company be and hereby is awarded a contract for furnishing and delivering ISCO Model 2150 flow module for the utility operation division in accordance with specifications on its low specification bid of \$21,966.08, terms net, FOB destination, payable out of Sewer Fund 0530, Dept./Agency 500, Organization 1970, Object 5241.

Resolution 02-0237 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

BE IT 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:

the north side of Superior Street from Third Avenue West easterly 75 feet. Proposed rate to be \$.25 for 30 minutes with a one hour limit.

Resolution 02-0197 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement, filed as Public Document No. 02-0408-19, between the city of Duluth and Miller Dwan Medical Center for the purpose of providing services to the corrections and law enforcement family support program of the city, at a cost not to exceed \$58,000, to be paid from Police Grant Program Fund 0215, Agency 200, Organization 2465, Object 5319.

Resolution 02-0218 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement, filed as Public Document No. 02-0408-20, between the city of Duluth and X. Dennis

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Swenson for the purpose of providing services to the corrections and law enforcement family support program of the city, at a cost not to exceed \$13,000, with up to \$10,000 to be paid from Police Grant Program Fund 0215, Agency 200, Organization 2465, Object 5319, and up to \$3,000 to be paid from Police Grant Program Fund 0215, Agency 200, Organization 2464, Object 5319.

Resolution 02-0219 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are authorized to execute an agreement with Willard Enterprises, Inc., for the operation of Indian Point Campground for the 2002 camping season, said agreement filed as Public Document No. 02-0408-22. All revenue from this agreement shall be deposited in Fund 0100, Agency 400, Organization 1812, Revenue Source 4621.

Resolution 02-0206 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement (Public Document No. 02-0408-23) with Grandma's Marathon-Duluth, Inc., to act as the city's fiscal agent in conjunction with fund raising activities for the city's proposed skateboard park.

Resolution 02-0215 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR HOGG:

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

WHEREAS, the city desires to assist Spirit Mountain recreation area authority in financing a special winter advertising campaign.

NOW, THEREFORE, BE IT RESOLVED, that \$15, 000 be allocated to the Spirit Mountain recreation area authority, this source coming from the undesignated fund balance in the tourism tax fund (0258).

Resolution 02-0238 was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the city of Duluth authorizes the director of planning and development to submit a grant application to the National Trust for Historic Preservation for a preservation development initiative grant (the grant) relating to the "Old Downtown."

FURTHER RESOLVED, in the event the city is awarded the grant, proper city officials are authorized to execute all applicable documents and agreements associated with the grant on behalf of the city of Duluth, said grant funds to be deposited into Fund 0255.

Resolution 02-0210 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Approved April 8, 2002
GARY L. DOTY, Mayor

- - -

Resolution 02-0239, by Councilor Stauber, accepting the Northwest Corner area study, a neighborhood plan for the area near the Airpark, Arrowhead Road and Rice Lake Road, was introduced for discussion.

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

Robert Richards expressed concern over the down-zoning of his property.

Councilor Stewart noted that there was a clerical error and that part of the map was colored incorrectly and that there is no rezoning being done there with this resolution.

Administrative Assistant Winson stated that a property owner must request a zoning change before it could occur.

Dave Holappa, Cindy Beaulier, Bob Zallar and Rick Johnston spoke in support of the resolution for the following reasons: the meetings producing this study were well attended and participated in; the area fronting Arrowhead Road from Swan lake Road to Haines Road remains zoned suburban; and Arrowhead Road has been improved and now this needs to be done.

President Ness moved to amend the third paragraph of the resolution to read as follows:

“NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby accepts the Northwest Corner plan, with the exception that all land fronting on Arrowhead Road from Swan Lake Road to Haines Road that is presently zoned S suburban should remain zoned S suburban and with the further exception of the land owned by Robert Richards in Clifton Heights, First Division of Duluth, which is more particularly described as follows:

all of Blocks 19 and 20, Lots 17 through 19 and Lots 41 through 46 in Block 17, Lots 1 through 6 and Lots 9 through 46 in Block 18, Lots 1 through 14, Lots 33 through 38 and Lots 41 through 46 in Block 21; Lots 1 through 17, Lot 18, except the southerly 25 of the easterly 66-1/2 feet and Lots 33 through 46 in Block 22; all in Clifton Heights, First Division of Duluth, be designated “medium density residential” on the Northwest Corner plan and with the expectation that the plan with the noted exceptions be reviewed and incorporated into the upcoming comprehensive plan and that it guide development in the study area until such time that the comprehensive plan is adopted. The document is on file in the office of the city clerk as Public Document No. _____ for an area generally described as:

the lands lying east of Haines Road; lying south of Airport Road and its extension eastward; lying west of Blackman Avenue and its extension northward and southward; and lying north of Marble Street and its extension eastward and westward,” which motion was seconded and unanimously carried.

Resolution 02-0239, as amended, was adopted as follows:

BY COUNCILOR STAUBER:

WHEREAS, the city of Duluth department of planning and development received several proposals for development in the study area and, therefore, anticipated future rezoning requests; and the department determined that a neighborhood study would help to guide development decisions in the study area; and

WHEREAS, on March 22, 2000, the city planning commission held a public hearing and resolved to accept the draft titled “Northwest Corner Study: A Land Use Plan,” and further recommended to the city council acceptance of the amended plan document titled “Northwest corner Area Study, July 2000.”

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby accepts the Northwest Corner plan, with the exception that all land fronting on Arrowhead Road from Swan Lake Road to Haines Road that is presently zoned S suburban should remain zoned S suburban and with the further exception of the land owned by Robert Richards in Clifton Heights, First Division of Duluth, which is more particularly described as follows:

all of Blocks 19 and 20, Lots 17 through 19 and Lots 41 through 46 in Block 17, Lots 1 through 6 and Lots 9 through 46 in Block 18, Lots 1 through 14, Lots 33 through 38 and Lots 41 through 46 in Block 21; Lots 1 through 17, Lot 18, except the southerly 25 of the easterly 66-1/2 feet and Lots 33 through 46 in Block 22; all in Clifton Heights, First Division of Duluth, be designated "medium density residential" on the Northwest Corner plan and with the expectation that the plan with the noted exceptions be reviewed and incorporated into the upcoming comprehensive plan and that it guide development in the study area until such time that the comprehensive plan is adopted. The document is on file in the office of the city clerk as Public Document No. 02-0408-21 for an area generally described as:

the lands lying east of Haines Road; lying south of Airport Road and its extension eastward; lying west of Blackman Avenue and its extension northward and southward; and lying north of Marble Street and its extension eastward and westward.

Resolution 02-0239, as amended, was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

[Editor's Note: This resolution was reconsidered on April 22, 2002.]

- - -

At this time, 8:00 p.m., the public hearing on the 2003 street improvement program began. City Engineer Metso reviewed the history of the program and the details of the 2003 program.

Phil Storsteen, addressing the Woodland-Far West project, expressed his concerns with: the slope of Redwing Street, where in the spring and after heavy rains there is a extreme amount of water that runs down it and then overflows the storm sewers, thus causing flooding and erosion of yards; Redwing and Faribault streets have higher than normal residential traffic due to suppliers' trucks to Ridgeview County Club and that with the improvements the existing higher speed will increase. He questioned why, with Alden Avenue connecting these two streets, could not Faribault Street be a designated a one way street and Redwing Street be designated a one way street going the other way.

Mr. Metso stated that with the approval of the ordering resolution, a detailed review of all the issues could be done, except for the use of Alden Avenue, to see what could be done to address the concerns noted.

Deede Westermann expressed concern over the mature maple trees that are on Central Avenue and how they mean a lot to those who live there and that if the trees could not be saved, that she and her neighbors would prefer the trees over a street improvement.

At this time, 8:17 p.m., the public hearing was closed.

- - -

Resolution 02-0220, by Councilor Stover, ordering the improvement known as the 2003 street improvement program pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth at an estimated cost of \$5,817,960, was introduced for discussion.

President Ness moved to amend the resolution by deleting Sixth Street from 24th Avenue East to Wallace Avenue (UMD/Lower Chester 3 project) from the list of projects for the 2003 street improvement program, which motion was seconded and unanimously carried.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Resolution 02-0220, as amended, was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth, the city council hereby orders the improvement, to city of Duluth standards, of those streets, avenues and parkways set forth in Public Document No. 02-0408-24 on file with the office of the city clerk; that the costs of said improvement estimated at \$5,817,960 shall be paid from the Street Improvement Fund 0440 and that 1/4 or less of said costs be levied against the property specifically benefitted by said improvements.

FURTHER RESOLVED, that the engineering staff shall meet and confer with interested members of each neighborhood involved in the program to gather public input and address public concerns involving various street design elements including but not limited to street width, boulevard design and width, tree removal and replacement, driveways and traffic patterns.

Resolution 02-0220, as amended, was unanimously adopted.

Approved April 8, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0224, by Councilor Bergson, amending housing code enforcement and rental housing licensing fees under Chapter 29A of the City Code, was introduced for discussion.

Councilor Bergson moved to table the resolution for an April 22, 2002, committee meeting, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR ATKINS

02-008 - AN ORDINANCE AUTHORIZING ACQUISITION OF CERTAIN PROPERTY IN LINCOLN PARK FROM STATE AND CONVEYANCE THEREOF TO THE NORTHERN COMMUNITIES LAND TRUST.

- - -

BY COUNCILOR GILBERT

02-011 - AN ORDINANCE AUTHORIZING THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY TO EXERCISE POWERS UNDER MINNESOTA STATUTES, CHAPTER 462C, ON BEHALF OF THE CITY OF DULUTH.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILORS STEWART AND GILBERT

02-010 (9529) - AN ORDINANCE ESTABLISHING AN AMERICAN INDIAN COMMISSION; ADDING A NEW ARTICLE XXVIII TO CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Tony Looking Elk, Warner Wirta, C.J. Bird, Lynn Nell Begay, John Day, Stan Kaittors, William Bird, Jr., Patrick Chesla, Charles Thompson, Wanda Sayers, Meg Bye and Kay L. Lewis expressed support for the ordinance.

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

- - -

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

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9529

BY COUNCILORS STEWART AND GILBERT:

AN ORDINANCE ESTABLISHING AN AMERICAN INDIAN COMMISSION; ADDING A NEW ARTICLE XXVIII TO CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That a new Article XXVIII be added to Chapter 2 of the Duluth City Code, 1959, as amended, to read as follows:

Article XXVIII. Duluth American Indian Commission.

Sec. 2-148. Commission created; purpose; membership.

There is hereby established an American Indian commission. The purpose of this commission is to ensure that the views of the American Indian community are incorporated in the decision making, future planning, and stewardship of the city of Duluth. The commission will endeavor to act as a guide in the development of public policy, planning and services so that the American Indian community is adequately represented in these processes. The commission will also endeavor to increase understanding and acceptance of the American Indian community and culture and to increase American Indian community involvement in all aspects of community affairs in Duluth. The commission shall consist of 11 members and shall reflect American Indian diversity in the area. A majority of the members shall be residents of Duluth. Members shall be appointed by the mayor with approval of the city council. Of the first 11 appointments, four shall be for three years, four shall be for two years and three shall be for one year. Thereafter, all appointments shall be for a term of three years. Members shall not serve for more than two consecutive terms.

Sec. 2-149. Officers; meetings; conduct of business.

The American Indian commission shall meet within 60 days after all its members are appointed to elect its officers, which shall consist of two co-chairs and a secretary. Thereafter the commission shall meet at stated intervals fixed by resolution of the commission. The commission may adopt reasonable bylaws, rules and regulations for the conduct of its business.

Sec. 2-150. Staff support.

Staff support, including clerical services and incidental expenses, shall be provided by the city.

Sec. 2-151. Duties.

The American Indian commission shall have the following duties:

(a) To advise the mayor and city council about issues concerning services, policies and facilities that are of concern to the American Indian community;

(b) To serve as a forum for citizen involvement and expressions on issues affecting the community;

(c) To identify and apply for funds and grants on behalf of the American Indian community;

(d) To make recommendations to the city council regarding community development planning;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

(e) To recommend to the city council legislation that empowers and promotes American Indian community development;

(f) To increase public understanding and acceptance of the American Indian community and culture;

(g) To develop a process to institutionalize a dialog with the city council, the mayor's office and city departments;

(h) To foster programs that will increase American Indian community involvement in all aspects of community affairs;

(i) To develop research and information about the American Indian community;

(j) To establish community development objectives and policies;

(k) To develop a strategic plan for the American Indian community.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 12, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stewart, Stover and President Ness -- 8

Nays: None -- 0

Absent: Councilor Stenberg -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 8, 2002
Approved April 8, 2002
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, April 15, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Absent: Councilor Gilbert -- 1

- - -

MOTIONS AND RESOLUTIONS

Resolution 02-0244, by President Ness, establishing city of Duluth election precincts and designating polling places, was introduced for discussion.

Councilor Hogg moved to table the resolution so that it can be adopted with companion Ordinance 02-012, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the first time:

BY PRESIDENT NESS

02-012 - AN ORDINANCE REDISTRICTING COUNCIL DISTRICTS BY AMENDING SECTION 2-42 OF THE DULUTH CITY CODE.

- - -

The meeting was adjourned at 7:03 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 22, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Absent: Councilor Atkins -- 1

- - -

The minutes of the council meeting held on March 25, 2002, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0422-13 J&S Partnership, LLP, et al. (two signatures), submitting petition to vacate Traverse Street between 44th and 45th Avenues West. -- Assessor

02-0422-01 Minnesota state auditor submitting Duluth transit authority audit report for the years ended December 31, 2001 and 2000. -- Received

02-0422-02 Charter Communications submitting: (a) 2001 performance review, pursuant to Ordinance No. 8778; (b) Statement of gross revenues for year ended December 31, 2001. -- Received

02-0422-03 Dorothy Peterson submitting letter regarding the recent temporary closure of Niagara Street between Junction Avenue and Brainerd Avenue (01-0841R). -- Received

02-0422-15 The following submitting communications regarding housing code enforcement and rental housing licensing fee amendments (02-0224R): (a) Tracy Ramsay; (b) Mike and Linda Szabo. -- Received

- - -

REPORTS OF OFFICERS

02-0422-04 Engineering division submitting monthly project status report of April 1, 2002. -- Received

02-0422-05 Parks and recreation department director submitting 2001 annual report. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-0422-06 Alcohol, gambling and tobacco commission minutes of: (a) February 12; (b) March 18; (c) March 28, 2002, meetings. -- Received

02-0422-07 Board of zoning appeals minutes of March 26, 2002, meeting. -- Received

02-0422-08 Building appeal board minutes of: (a) January 16; (b) March 13, 2002, meeting. -- Received

02-0422-09 Community development committee minutes of: (a) January 29; (b) February 26, 2002, meetings. -- Received

02-0422-10 Duluth housing commission minutes of: (a) January 10; (b) February 14, 2002, meetings. -- Received

02-0422-11 Duluth/North Shore sanitary district board minutes of April 2, 2002, meeting. -- Received

02-0422-12 Parking commission minutes of March 12, 2002, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Verne Wagner urged the council to investigate the charitable gambling revenue stream as a revenue source for the city to use as economic development and education in Duluth.

- - -

Elijah stated that all minorities should become an integral part of the society instead of segregated communities.

- - -

Elsie Robinson stated the deposit amount charged by the water and gas division for service connection is extremely high and not fair and requested the council look at that policy and procedure.

- - -

Jim Miller stated that he has not been paid for the work done at Bayfront Park and asked the council to help him get information from the city to help clear up this matter.

- - -

KL Lewis expressed ideas for different vendors and uses down at the Canal Park area.

- - -

At this time, 7:45 p.m., the public hearing regarding Duluth transit authority (DTA) summer teen fares began.

Jim Heileg, representing the DTA, reviewed that every summer they reduce the teen fares, which has been a successful program for the DTA.

At this time, 7:50 p.m., the public hearing was closed.

- - -

RESOLUTION RECONSIDERED

Councilor Hogg moved to reconsider Resolution 02-0239, accepting the Northwest Corner area study, a neighborhood plan for the area near the airpark, Arrowhead Road and Rice Lake Road, by Councilor Stenberg, which motion was seconded and unanimously carried.

President Ness moved to amend the third paragraph of the resolution to read as follows:

“NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby accepts the Northwest Corner plan with the following exceptions:

(a) That all land except the southwest 1/4 of the southwest 1/4 of Section 7, Township 50 North, Range 14 West, fronting on Arrowhead Road from Swan Lake Road to Haines Road that is presently zoned S suburban should remain zoned S suburban;

(b) That the land owned by Robert Richards in Clifton Heights, First Division of Duluth, which is more particularly described as follows:

all of Blocks 19 and 20, Lots 17 through 19 and Lots 41 through 46 in Block 17, Lots 1 through 6 and Lots 9 through 46 in Block 18, Lots 1 through 14, Lots 33 through 38 and Lots 41 through 46 in Block 21; Lots 1 through 17, Lot 18, except the southerly 25 feet of the easterly 66-1/2 feet and Lots 33 through 46 in Block 22; all in Clifton Heights, First Division of Duluth, be designated medium density residential on the Northwest Corner plan;

(c) That the land abutting Swan Lake Road from Arrowhead Road to Haines Road should remain zoned S suburban;

with the expectation that the plan with the noted exceptions be reviewed and incorporated into the upcoming comprehensive plan and that it guide development in the study area until such time that the comprehensive plan is adopted. The document is on file in the office of the city clerk as Public Document No. 02-0408-21 for an area generally described as:

the lands lying east of Haines Road; lying south of Airport Road and its extension eastward; lying west of Blackman Avenue and its extension northward and southward; and lying north of Marble Street and its extension eastward and westward,” which motion was seconded and unanimously carried.

Resolution 02-0239, as amended, was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, the city of Duluth department of planning and development received several proposals for development in the study area and, therefore, anticipated future rezoning requests; and the department determined that a neighborhood study would help to guide development decisions in the study area; and

WHEREAS, on March 22, 2000, the city planning commission held a public hearing and resolved to accept the draft titled "Northwest Corner Study: A Land Use Plan," and further recommended to the city council acceptance of the amended plan document titled "Northwest corner Area Study, July 2000."

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby accepts the Northwest Corner plan with the following exceptions:

(a) That all land except the southwest ¼ of the southwest ¼ of Section 7, Township 50 North, Range 14 West, fronting on Arrowhead Road from Swan Lake Road to Haines Road that is presently zoned S suburban should remain zoned S suburban;

(b) That the land owned by Robert Richards in Clifton Heights, First Division of Duluth, which is more particularly described as follows:

all of Blocks 19 and 20, Lots 17 through 19 and Lots 41 through 46 in Block 17, Lots 1 through 6 and Lots 9 through 46 in Block 18, Lots 1 through 14, Lots 33 through 38 and Lots 41 through 46 in Block 21; Lots 1 through 17, Lot 18, except the southerly 25 feet of the easterly 66-½ feet and Lots 33 through 46 in Block 22; all in Clifton Heights, First Division of Duluth; be designated medium density residential on the Northwest Corner plan;

(c) That the land abutting Swan Lake Road from Arrowhead Road to Haines Road should remain zoned S suburban; with the expectation that the plan with the noted exceptions be reviewed and incorporated into the upcoming comprehensive plan and that it guide development in the study area until such time that the comprehensive plan is adopted. The document is on file in the office of the city clerk as Public Document No. 02-0408-21 for an area generally described as:

the lands lying east of Haines Road; lying south of Airport Road and its extension eastward; lying west of Blackman Avenue and its extension northward and southward; and lying north of Marble Street and its extension eastward and westward.

Resolution 02-0239, as amended, was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

RESOLUTION TABLED

Councilor Stewart moved to remove Resolution 02-0244, establishing city of Duluth election precincts and designating polling places, by President Ness, from the table, which motion was seconded and unanimously carried.

Councilor Stewart moved to amend the public document so that the easterly boundary of Precinct 23, from Skyline Parkway and Observation Road to 11th Avenue East and Third Street, would be included in Precinct 22, which motion was seconded and unanimously carried.

Resolution 02-0244, as amended, was adopted as follows:

BY PRESIDENT NESS:

RESOLVED, that pursuant to Minnesota Statutes 204B.14, subdivisions 3C and 4, the election precincts as shown on Public Document No. 02-0422-16, on file in the office of the city clerk, are hereby established in the city of Duluth.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

FURTHER RESOLVED, that pursuant to Minnesota Statutes 204B.16, subdivision 3, the following locations in the election precincts established by this resolution are designated as polling places in the city of Duluth.

Polling Place List		
#	Polling Place	Address
1	St. Michael's Catholic Church (lower level)	4901 East Superior Street
2	Lakeside Presbyterian Church (lower level)	4430 McCulloch Street
3	Lutheran Church of the Good Shepherd	45th Avenue East and Colorado
* 4	Faith Lutheran Church (lower level)	1814 North 51st Avenue East
5	Lakeview Covenant Church (lower level)	1001 Jean Duluth Road
6	Woodland Community Club	3211 Allendale Avenue
7	Glen Avon Presbyterian Church (Fellowship Hall)	2105 Woodland Avenue
8	Duluth Congregational Church (lower level)	3833 East Superior Street
9	Pilgrim Congregational Church (lower level)	2310 East Fourth Street
10	U.M.D. Kirby Student Center (garden room)	10 University Drive
11	Kenwood Lutheran Church (lower level)	324 West Cleveland Street
12	Chester Park United Methodist Church (lower level)	819 North 18th Avenue East
13	Mt. Olive Lutheran Church (lower level)	2010 East Superior Street
* 14	First Lutheran Church (lower level)	1100 East Superior Street
15	Trinity Lutheran Church (avenue entrance)	1108 East Eighth Street
16	Peace Church (Tenth Avenue entrance)	1015 East 11th Street
17	First United Methodist Church (Lakeview Social Hall)	230 East Skyline Parkway
18	Central Hillside Community Center	12 East Fourth Street
19	Rainbow Senior Center (auditorium)	211 North Third Avenue East
20	Lafayette Square (upper level)	3026 Minnesota Avenue
21	Duluth Public Library (green room)	520 West Superior Street
22	St. Peter's Catholic Church (lower level)	818 West Third Street
23	Lincoln Park Center (lower level)	2014 West Third Street

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

#	Polling Place	Address
* 24	Holy Cross Lutheran Church of Duluth Heights (lower level)	410 North Arlington Avenue
25	Duluth Heights Community Club	33 West Mulberry Street
26	Piedmont Elementary School (gym - rear entrance)	2827 Chambersburg Avenue
27	St. Lawrence Church	2410 Morris Thomas Road
* 28	Holy Family Catholic Church (social hall)	2430 West Third Street
29	Harrison Community Club	3002 West Third Street
* 30	City Center West	5830 Grand Avenue
31	Faith Haven (recreation room)	4901 Grand Avenue
32	Elim Lutheran Church (social hall)	6101 Cody Street
33	Bayview Heights School (gym)	8702 Vinland Street
34	Bethany Baptist Church (social hall)	6700 Grand Avenue
35	Goodfellowship Community Center (warming area)	1242-88th Avenue West
36	Stowe School (gym)	715 - 101st Avenue West
* designates new polling place		

Resolution 02-0244, as amended, was unanimously adopted.
 Approved April 22, 2002
 GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the second time:

BY PRESIDENT NESS

02-012 (9530) - AN ORDINANCE REDISTRICTING COUNCIL DISTRICTS BY AMENDING SECTION 2-42 OF THE DULUTH CITY CODE.

Councilor Hogg moved to consider the ordinance at this time, which motion was seconded and unanimously carried.

President Ness moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

MOTIONS AND RESOLUTIONS

The following entitled resolution was read for the first time:

BY PRESIDENT NESS AND COUNCILOR STAUBER

02-0282R - RESOLUTION AMENDING RULE 7 OF THE STANDING RULES OF THE CITY COUNCIL.

- - -

CONSENT AGENDA

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

Councilor Stauber 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, 2002, to April 30, 2003, in the amount of \$3,656,567 as set out in the budget on file with the city clerk as Public Document No. 02-0422-17 for the Spirit Mountain recreation area authority is hereby approved.

Resolution 02-0242 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILORS HOGG AND STOVER:

WHEREAS, Robert Arch and Kent Hoffman submitted to the city council a request for a special use permit for a low density planned development, in accordance with Section 50-36.1 of the Duluth City Code, on property described as Blocks 1-4, Randall's Division, and located 600 feet north of 1405 Anderson Road, east of properties located between 3926-4026 Trinity Road and west of properties located between 801-901 Anderson Road; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission subsequently reported its approval to the city council; and

WHEREAS, the planning commission's report to the city council recommended a condition (e) that reads as follows:

(e) That the development plan provide a sidewalk on one side of Bessel Avenue from Anderson Road to the intersection of the loop street within the project; and

WHEREAS, in the proceedings on the project before the city council it was clearly expressed by the city council that condition (e) should be modified so that the sidewalk mentioned in condition (e) need not be constructed until after there is constructed a sidewalk along either side of Anderson Road from Trinity road to Central Entrance; and

WHEREAS, the special use permit for the project was approved by the city council in Resolution No. 02-0179 but the resolution inadvertently omitted the change in condition (e) mentioned above.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby corrects the inadvertent error contained in Resolution No. 02-0179 by modifying condition (e) set forth in the resolution so that the sidewalks mentioned in said condition need not be constructed by the developer until after at least one sidewalk is constructed along either side of Anderson Road from Trinity Road to Central Entrance.

Resolution 02-0284 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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:

St. Michael's Church/School, 4901 East Superior Street, for May 4, 2002, with Amy Flaig, manager.

Grandma's Marathon Duluth, Inc., Morse Street and Canal Park Drive, for June 21, 22 and 23, 2002, with Scott Keenan, manager, with the music and serving ceasing at 12:30 a.m.

Hermantown Volunteer Fire Department, 4015 Airpark Boulevard, for May 4, 2002, with Tim Anderson, manager.

Resolution 02-0257 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor license for the period ending August 31, 2002, subject to departmental approvals:

Grandma's Angie's Mall, LLC (Angie's Cantina & Grille), 1600 Miller Trunk Highway.

Resolution 02-0258 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the late hour entertainment license of the following on sale intoxicating liquor license for the period ending August 31, 2002, subject to departmental approvals:

Pizza Lucé III (Pizza Lucé), 11 East Superior Street.

Resolution 02-0259 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the city council of the city of Duluth hereby issues on sale nonintoxicating malt liquor license renewals for the period beginning May 1, 2002, and ending April 30, 2003, subject to departmental approvals and the payment of sales and property taxes, as provided for in the Duluth City Code, to the applicants listed on Public Document No. 02-0422-18.

Resolution 02-0260 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the city council of the city of Duluth hereby issues off sale nonintoxicating malt liquor license renewals for the period beginning May 1, 2002, and ending April 30, 2003, subject to departmental approvals and the payment of sales and property taxes, as provided for in the Duluth City Code, to the applicants listed on Public Document No. 02-0422-19.

Resolution 02-0261 was unanimously adopted.

Approved April 22, 2002

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, Holy Family Catholic Parish and the regents of the University of Minnesota 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 Holy Family Catholic Parish and the regents of the University of Minnesota 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 02-0262 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Century Fence, Inc., be and hereby is awarded a contract for furnishing and delivering fence and backstops at various city of Duluth recreational center sites for the city architect division in accordance with specifications on its low specification bid of \$34,288, terms net 30, FOB job site, payable out of Capital Improvement Fund 0450, Dept./Agency 015, Organization 2002, Object C202.

Resolution 02-0265 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classifications listed below, which were approved by the civil service board on April 8, 2002, and which are filed with the city clerk as Public Document No. 02-0422-20, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and that the pay ranges and rates shall remain unchanged.

Classification	Pay range	2002 pay rates
Van driver	14a	\$1,367 - \$1,600
Zookeeper I	23	\$2,354 - \$2,780
Water and gas distribution leadworker	32	\$3,435 - \$4,084

Resolution 02-0247 was unanimously adopted.

Approved April 22, 2002

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed specifications for the new civil service classification of geographic information systems specialist, which were approved by the civil service board on April 3, 2002, and which are filed with the city clerk as Public Document No. 02-0422-21, are approved. This classification shall be subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 133 - 136, \$3301 to \$4471 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 02-0248 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

SISTER CITY COMMISSION - Maureen DeGrio, Marvin Heikkinen, Judith Hermans and Lois Maine for terms expiring March 30, 2005.

Resolution 02-0272 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

ALCOHOL, GAMBLING AND TOBACCO COMMISSION - William A. Carlson, Robert Hendrickson and Arnold C. Johnson for terms expiring March 20, 2005.

Resolution 02-0273 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Heritage Window and Door Company be and hereby is awarded a contract for the replacement of the Damiano Center windows for the architect division in accordance with specifications on its low specification bid of \$260,029, terms net 30, FOB job site, \$64,645.93 payable out of Community Development Fund 0262, Dept./Agency 624, Object 6409 and \$195,383.07 to be paid by private funds of Damiano of Duluth, Inc.

Resolution 02-0266 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the city of Duluth hereby accepts a grant in the amount of \$24,000 from the U.S. department of agriculture - natural resources conservation service through the state of Minnesota department of natural resources for the Lincoln Park Miller Creek restoration project, to be deposited into the Stormwater Utility Fund 535, Org. 0585, Obj. 5303.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BE IT FURTHER RESOLVED, that the sources and amounts of the local match as identified in the application in the amount of \$8,000 and an additional amount of \$32,000 as previously allocated for this project in Resolution 01-0720, shall also be paid from Fund 535, Org. 0585, Obj. 5303, the stormwater utility fund.

BE IT FURTHER RESOLVED, that upon completion of Minnesota historical preservation office approval, the proper city officials are authorized to enter into the grant agreement with the state of Minnesota for the above-referenced project.

Resolution 02-0271 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Malstrom Street lying west of Stebner Road and utility easements on Lot 8, Block 4, of Airport Division legally described as that portion of Malstrom Street lying west of Stebner Road adjacent to Lots 1, 8 and 9, Block 4, Airport Division, and utility easements on Lot 8, Block 4, of Airport Division; and

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

WHEREAS, the city planning commission unanimously approved the vacation petition at its March 27, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of a portion of Malstrom Street and existing utility easements as described above and as more particularly described on Public Document No. 02-0422-22(a).

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.

BE IT FURTHER RESOLVED, that the city council approves and the proper city officials are authorized to accept and record documents for the utility easements over the vacated right-of-way and on Lot 8, Block 4, of Airport Division and as more particularly described on Public Document No. 02-0422-22(b).

Resolution 02-0235 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the city of Duluth authorizes the director of planning and development to submit a grant application to the FHWA national scenic byways program for a Skyline Parkway interpretive and way finding plan.

Resolution 02-0240 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

RESOLVED, that pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and the Northern Community Land Trust (NCLT) in the amount of \$55,000, as approved by the DEDA board at its meeting of April 16, 2002, pursuant to DEDA Resolution 02D-20, a copy of which is on file in the office of the city clerk as Public Document No. 02-0422-23, is hereby approved.

Resolution 02-0250 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, pursuant to Resolution No. 99-0239, that the Duluth economic development authority's (DEDA) reimbursement to the city for land costs related to the Habitat-Billman residential development in the amount of \$52,743.30, payable from Fund 0860, approved by the DEDA board at its meeting of April 16, 2002, pursuant to DEDA Resolution No. 02D-23, a copy of which is on file in the office of the city clerk as Public Document No. 02-0422-24, is hereby approved.

Resolution 02-0280 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, Duluth economic development authority's (DEDA) contribution to HRA in the amount of \$25,000 for administration of the agreement referenced below, payable from Housing Projects District No. 7, Fund 0865, is hereby approved.

FURTHER RESOLVED, that the agreement between DEDA and HRA in the amount of \$525,000, \$500,000 of which is payable from Fund 0860, Agency 860, Org. 8642, and \$25,000 of which is payable from Housing Projects District No. 7, Fund 0865, as approved by the DEDA board at its meeting of April 16, 2002, pursuant to DEDA Resolution No. 02D-18, a copy of which is on file in the office of the city clerk as Public Document No. 02-0422-25, is hereby approved.

Resolution 02-0281 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to extend the sanitary sewer in Woodland Avenue beginning at the manhole 150 feet south of Pleasant View Road to a point 1,500 feet northerly to serve properties with plat and parcels: 2720-24, 2720-27, 2720-30, 2720-31, 2720-33, 2720-36, 2720-37 and 2720-34, located on Woodland Avenue north of the Pleasant View Road intersection.

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

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

Resolution 02-0245 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Approved April 22, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, by Resolution of intent numbered 01-0782, the council did request the administration to prepare plans and specifications for the construction of sanitary sewer main along Decker Road beginning 1,300 feet north of Anderson Road and continuing for 1,660 feet north (City Job No. 01955N) at an estimated assessable cost of \$132,000; and

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

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$132,000, payable from Special Assessment Fund 0410, Agency 038, Organization 5352, Object 5530, and that all of the cost of said improvement be defrayed by special assessment against the land and premises specifically benefitted; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 02-0246 was unanimously adopted.

Approved April 22, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct a permanent street in Maryland Street from Dodge Avenue to Victoria Street approximately 720 feet in length, including permanent residential design street with concrete curb and gutter, bituminous surface and storm sewer; and for sanitary sewer, water main and gas main to serve Lots 5 through 10, Block 1, and Lots 1 through 11, Block 2, Richards 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 02-0251 was unanimously adopted.

Approved April 22, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement (Public Document No. 02-0422-26) between the city of Duluth and the state of Minnesota

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

department of transportation for the cost, maintenance and operation of a traffic control signal located at 24th Avenue West and Fifth Street in Duluth.

Resolution 02-0263 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 01-0116 to Carlson and Kirwan for furnishing and marketing and media purchasing services for the natural gas advertising program, be amended to increase the amount by \$90,100 for a new total of \$200,500, payable out of Gas Fund 0520, Dept./Agency 500, Organization 2430, Object 5340.

Resolution 02-0268 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to pay up to \$61,800 to Debbie Isabel and a contractor chosen by Isabell, and in the manner more fully set forth below, as full and final settlement of all claims arising out of back-ups of the city sanitary sewer into the Isabell home located at 1040 84th Avenue West, Duluth, Minnesota, and occurring on or about November 19, 1996, and August 14, 2000; payment to be made from the self-insurance fund. Payment shall be made as follows: \$52,800 to be paid directly to Debbie Isabell and an amount not to exceed \$9,000 to a contractor of Isabell's selection, for the installation of a grinder pump and backup battery component.

Resolution 02-0274 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that various vendors 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 \$58,280.54, terms net 30, FOB job sites, payable out of various funds, depts./agencies, organizations and objects.

Resolution 02-0275 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that National Meter, Inc., be and hereby is awarded a contract for furnishing and delivering 1,000 gas meters for the utility operations division in accordance with specifications on its low specification bid of \$52,264.88, terms net 30, FOB destination, payable out of Gas Fund 0520, Dept./Agency 500, Organization 2410, Object 5227.

Resolution 02-0276 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

RESOLVED, that Resolution 01-0545 to Twin Ports Testing, Inc., for nondestructive radiographic testing services of 16 inch steel high pressure gas main, be amended to increase the amount by \$26,105 for a new total of \$58,482.50, payable out of Gas Construction Bond Fund 0521, Dept./Agency 500, Object 5532.

Resolution 02-0277 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that in accordance with the provision of Article XIV Section 33 of the Duluth City Code, 1959, as amended, the following parking lot is designated as an off street parking facility:

the Lake Place lot, which is a parking lot bounded on the west by Lake Place Drive and on the east by Endion Station (Duluth Convention and Visitors Bureau) and is depicted by Exhibit A (Public Document No. 02-0422-27).

This 127 space parking lot will be controlled by the following regulations:

(a) One hundred thirteen of the parking spaces are to be controlled by the installation of parking meters; five of the parking spaces will be controlled by one hour time limit parking for visitors to the Duluth Convention and Visitors Bureau; three of the parking spaces will be designated as permit parking for use by the Duluth Convention and Visitors Bureau; six spaces will be designated as disability parking spaces;

(b) Proposed rate to be: between May 15 and October 15, one quarter for 30 minutes with a three hour limit, from October 16 to May 14, one quarter for 60 minutes with a ten hour limit. The hours of operation are from 8:00 a.m. to 5:00 p.m.

Resolution 02-0241 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following handicapped parking zone is hereby established: front of 909 East Fourth Street.

Resolution 02-0279 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are authorized to execute a lease filed as Public Document No. 02-0422-28 between the city of Duluth and Bernick's Pepsi of Duluth, a Minnesota corporation, to lease the Park Point Beach House for the 2002 season (May 15 - September 30); revenues received shall be deposited into parks and recreation department, General Fund 0100, Department 400, Division 1812, Line Item 4623.

Resolution 02-0252 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

WHEREAS, the Duluth transit authority in 1999, 2000 and 2001, with the cooperation of the Northland Foundation and its alliance with youth committee, offered a summer pass for teen riders; and

WHEREAS, the program was successful for the Duluth transit authority both in terms of revenue and ridership; and

WHEREAS, the Duluth transit authority desires to continue this program in the year 2002; and

WHEREAS, the Duluth City Council has held a public hearing on the summer teen pass program as required by Laws of Minnesota, 1969, Chapter 720, Section 6(g).

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves the DTA request to sell a summer teen pass for a reduced price of \$30 for the summer or \$10 per month for the months of June, July and August, 2002.

Resolution 02-0255 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

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

WHEREAS, the Duluth transit authority has requested the city of Duluth to accept state and federal operating and capital grants on behalf of the Duluth transit authority; and

WHEREAS, the Duluth transit authority has completed the necessary state and federal requirements for the above-mentioned grants.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves the Duluth transit authority request to accept operating grants and capital grants from the state of Minnesota and the federal government as per grants submitted for the years 2001 and 2002.

BE IT FURTHER RESOLVED, that the Duluth City Council hereby transfers \$236,254 from the DTA 2001 operating account to the DTA special fund (City Fund 2020) for DTA system improvements associated with these grants.

Resolution 02-0256 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that North Star Turf, Inc., be and hereby is awarded a contract for furnishing and delivering the two turf top dressers tow type for the Lester golf course and Enger golf course in accordance with specifications on its low specification bid of \$15,762, terms net 30, FOB destination, payable out of Golf Fund 0503, Dept./Agency 400, Organization 0500, Object 5580.

Resolution 02-0269 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that North Star Turf, Inc., be and hereby is awarded a contract for furnishing and delivering the annual fertilizer requirements during year 2002 for the Lester golf course, Enger golf course and Wheeler athletic complex in accordance with specifications on its low specification bid of \$41,163.79, terms net 30, FOB destination, \$30,567.09 payable out of Golf Fund 0503,

Dept./Agency 400, Organization 0500, Object 5229 and \$10,596.70 payable out of Special Projects Fund 0210, Dept./Agency 030, Organization 2190, Object 5229.

Resolution 02-0270 was unanimously adopted.

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

BY COUNCILOR STAUBER (INTRODUCED BY COUNCILOR ATKINS)

02-008 (9531) - AN ORDINANCE AUTHORIZING ACQUISITION OF CERTAIN PROPERTY IN LINCOLN PARK FROM STATE AND CONVEYANCE THEREOF TO THE NORTHERN COMMUNITIES LAND TRUST.

Councilor Stauber moved to consider the ordinance at this time, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR GILBERT

02-011 (9532) - AN ORDINANCE AUTHORIZING THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY TO EXERCISE POWERS UNDER MINNESOTA STATUTES, CHAPTER 462C, ON BEHALF OF THE CITY OF DULUTH.

Councilor Gilbert moved to consider the ordinance at this time, which motion was seconded and unanimously carried.

- - -

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

MARTHA A. OSWALD, Assistant City Clerk, for

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9530

BY PRESIDENT NESS:

AN ORDINANCE REDISTRICTING COUNCIL DISTRICTS BY AMENDING SECTION 2-42 OF THE DULUTH CITY CODE.

The city of Duluth does ordain:

Section 1. That Section 2-42 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 2-42. Assignment of election precincts to council districts.

Pursuant to Section 2 of the Duluth City Charter the city council hereby assigns the election precincts established by city council Resolution No. 02-0244 to the various council districts as follows:

Council district No. 1 shall consist of election precincts numbered 1, 2, 3, 4, 5, 6 and 7.

Council district No. 2 shall consist of election precincts numbered 8, 9, 10, 11, 12 and 13.

Council district No. 3 shall consist of election precincts numbered 14, 15, 16, 17, 18, 19, 20, 21 and 22.

Council district No. 4 shall consist of election precincts numbered 23, 24, 25, 26, 27, 28 and 29.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Council district No. 5 shall consist of election precincts numbered 30,
31, 32, 33, 34, 35 and 36.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 26, 2002)

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

Yeas: Councilors Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Nays: None -- 0

Absent: Councilor Atkins -- 1

Passed April 22, 2002
Approved April 22, 2002
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9531

BY COUNCILOR STAUBER (introduced by Councilor Atkins):

AN ORDINANCE AUTHORIZING ACQUISITION OF CERTAIN
PROPERTY IN LINCOLN PARK FROM STATE AND CONVEYANCE
THEREOF TO THE NORTHERN COMMUNITIES LAND TRUST.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to acquire through free conveyance four tax forfeited parcels of land in Lincoln Park from the state of Minnesota and to enter into a development agreement, a copy of which is on file in the office of the city clerk as Public Document No. 02-0422-14, with the Northern Communities Land Trust pursuant to which the city will convey by quit claim deed the aforesaid property in St. Louis County, Minnesota, legally described below, to the trust who will develop the property for low-moderate income housing and to execute all documents necessary with regard to said conveyance:

southerly 1/2 of the easterly 28 feet and the westerly 21-1/2 feet of Lot 421, Lot 423 and the easterly 14 feet of Lot 425, all in Block 79, DULUTH PROPER Second Division.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: May 26, 2002)

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

Yeas: Councilors Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Nays: None -- 0

Absent: Councilor Atkins -- 1

Passed April 22, 2002
Approved April 22, 2002
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9532

BY COUNCILOR GILBERT:

AN ORDINANCE AUTHORIZING THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY TO EXERCISE POWERS UNDER MINNESOTA STATUTES, CHAPTER 462C, ON BEHALF OF THE CITY OF DULUTH.

The city of Duluth does ordain:

Section 1. The city of Duluth hereby authorizes the Duluth economic development authority to exercise, on behalf of the city, those powers conferred by Minnesota Statutes, Chapter 462C (the housing act), to develop and administer programs of:

- (a) Making or purchasing mortgage or rehabilitation loans to finance the acquisition or rehabilitation of single family housing by low and moderate income persons and families; or
- (b) Making or purchasing loans to finance multifamily housing developments or the rehabilitation of multifamily housing developments.

Section 2. This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 26, 2002)

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

Yeas: Councilors Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Nays: None -- 0

Absent: Councilor Atkins -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed April 22, 2002

Approved April 22, 2002

GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 13, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Absent: Councilor Atkins -- 1

- - -

The minutes of the city council meetings held on April 1, 8 and 15, 2002, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0513-01 Danny Aker, et al. (107 signatures), submitting petition to reclassify all properties presently classified as R-1-C to R-1-A in the plats of Fond du Lac. -- Assessor

02-0513-02 DuWayne Bastyr, et al. (18 signatures), submitting petition to vacate utility easement along the west side of the Rearrangement of Aarons Valley, Blocks 1 and 2. -- Assessor

02-0513-03 Michael Rosenzweig, et al. (12 signatures), submitting petition to construct a permanent alley in Third Street Alley between 18th and 19th avenues East. -- Assessor

02-0513-04 Pizza Lucé III, Inc., submitting application for a concurrent use permit to use the sidewalk on property described as Lots 1, 3 and 5, East Superior Street, Duluth Proper First Division (11 East Superior Street, Suite 500) for outdoor dining. -- Planning commission

02-0513-05 Dale Sundin, et al. (four signatures), submitting application for a concurrent use permit for Lot 11, Block 2, Ponderosa Groves (1121 Redbud Street) to erect a garage. -- Planning commission

02-0513-06 Duluth Electric Streetcar Restoration submitting appeal of the Duluth technical design advisory committee for DWMX-D denial for placement of a 1902 Duluth electric streetcar in Canal Park. -- Committee 2 (Physical planning)

02-0513-07 St. Louis County Heritage and Arts Center submitting application for rental during which alcoholic beverages will be served from Linda Houser on May 26, 2002. -- Received

02-0513-19 The following submitting communications regarding proposed amendments to bed and breakfast zoning regulations (02-006-O): (a) M. Garver Colombo; (b) Charles and Diane Drexler; (c) Duluth Preservation Alliance; (d) Cheryl Erickson and David Tyacke; (e) Chuck Mehlberg; (f) Mike and Sharon Mollerus; (g) Donald H. Prettyman; (h) Jane Rhodes; (i) Phil Sneve; (j) Paula H. Tsufis. -- Received

- - -

REPORTS OF OFFICERS

02-0513-08 Assessor submitting:

(a) Affidavits of mailing of notices of public hearings of the special assessment board on May 14, 2002, in Room 106A, City Hall, at:

(1) 4:00 p.m. regarding reassessment of costs for development in Parkwood;

(2) 4:15 p.m. regarding the sanitary sewer in Woodland Avenue north of the Pleasant View Road intersection. -- Clerk

(b) Letters of sufficiency of petitions to:

(1) Construct a permanent alley in Third Street Alley between 18th and 19th avenues East;

(2) Vacate West Second Street, aka Traverse Street, between 44th Avenue West and 45th Avenue West. -- Received

02-0513-09 Building official submitting appeal of the board of zoning appeals' denial of a variance request for the construction of two dwellings on property located at 16 and 20 East Fifth Street (Northern Communities Land Trust). -- Committee 2 (Physical planning)

02-0513-10 Public works and utilities department director submitting 2001 annual report. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-0513-11 Civil service board minutes of: (a) February 5; (b) March 8, 2002, meetings. -- Received

02-0513-12 Duluth airport authority minutes of March 19, 2002, meeting. -- Received

02-0513-13 Duluth transit authority: (a) Financial statement summary for February 2002; (b) Minutes of February 20, 2002, meeting. -- Received

02-0513-14 Heritage preservation commission minutes of: (a) February 26; (b) March 26, 2002, meetings. -- Received

02-0513-15 Housing and redevelopment authority of Duluth minutes of February 26, 2002, meeting. -- Received

02-0513-16 Planning commission minutes of: (a) March 12; (b) March 27, 2002, meetings. -- Received

02-0513-17 Seaway Port authority of Duluth minutes of: (a) February 20; (b) March 27, 2002, meetings. -- Received

02-0513-18 Technical design advisory committee for DWMX-D minutes of March 19, 2002, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Elsie Robinson expressed her concerns about the issue of a deposit required by Comfort Systems and that it is based on the prior tenant's average usage of the last two years.

- - -

Kay Lewis commented on safety at large intersections that handicapped individuals access and that bus service should be restored in the Miller Hill shopping area.

- - -

C.J. Bird expressed her concerns on a recent routine traffic stop, in the Central Hillside neighborhood, where five squads responded. She stated that in other areas of the city there would not be that many squads responding and that that kind of response to a routine traffic incident gives an appearance of fear in this neighborhood.

- - -

Councilor Atkins took his seat at this time.

- - -

RESOLUTION TABLED

Councilor Bergson moved to remove Resolution 02-0224, amending housing code enforcement and rental housing licensing fees under Chapter 29A of the City Code, from the table, which motion was seconded and unanimously carried.

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

Jim Aired felt that the refundable deposit fee that is being proposed to be doubled to \$ 200, in addition to permit fees, penalizes all individuals who are in compliance for the problems of a small number individuals.

Kay Lewis suggested the structure of bookkeeping be reviewed for a more efficient operation.

Duane Lasley, building official, reviewed his March 29, 2002, memo relative to the background for the fee increases.

After council discussion on the issues raised by the speakers, there was further comment on the lack of an adequate housing stock and questioned what progress can be made relative to improving the relationship with builders and still address the issues of this resolution.

Councilor Hogg moved to refer the resolution to the administration for further review, which motion was seconded and unanimously carried.

- - -

At this time, 7:45 p.m., the public hearing regarding the Minnesota Investment Fund Grant Application for Northstar Aerospace project began.

No one appeared who wished to be heard and the public hearing was closed.

- - -

UNFINISHED BUSINESS

BY PRESIDENT NESS AND COUNCILOR STAUBER:

BE IT RESOLVED, that Rule 7 of the standings rules of the Duluth City Council shall be amended to read 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. Reports of council open issues;
9. Opportunity for citizens to be heard;
10. Unfinished business;
11. New business, motions, resolutions;
12. Introduction and consideration of ordinances;
13. 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.

Resolution 02-0282 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to make a loan of \$70,000 to the Duluth Softball Players Association to be used for the purchase and installation of field lighting for the new softball field at Wheeler Athletic Complex.

RESOLVED FURTHER, that said loan shall be for a term of three years at no interest and shall be drawn from General Fund 0100.

Resolution 02-0309 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Duncan Industries be and hereby is awarded a contract for furnishing and delivering 130 CK electronic parking meter mechanisms for the maintenance operations division in accordance with specifications on its low specification bid of \$20,143.50, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 015, Organization 2020, Object MS07.

Resolution 02-0299 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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

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

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

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

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

Licensee	Gambling Site	Date Application Filed
Northland American Red Cross	Player's Sports Bar	April 12, 2002

Resolution 02-0314 was unanimously adopted.
Approved May 13, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to execute a supplemental

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

agreement with MAR Computer Services for the professional training and emergency software services as needed for the M.I.S. division, at a rate of \$50 per hour at a total annual cost of approximately \$9,000, payable out of General Fund 0100, Dept./Agency 015, Organization 1513, Object 5319.

Resolution 02-0328 was unanimously adopted.
Approved May 13, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

COMMISSION ON DISABILITIES - Bridget Riversmith for a term expiring November 1, 2003, replacing Marilyn Norenberg who resigned.

Resolution 02-0321 was unanimously adopted.
Approved May 13, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

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

WHEREAS, the city of Duluth as a suballocator is authorized to administer 2003 LIHTCs in an amount to be announced by the Minnesota housing finance agency in early 2003; and

WHEREAS, in accordance with Section 42 of the Internal Revenue Code of 1986, as amended, a qualified allocation plan for 2003 (the plan) setting forth criteria governing the award of the city's LIHTCs has been prepared; and

WHEREAS, the plan was available for review and written comments by the general public and a public hearing was held on April 29, 2002; and

WHEREAS, the Duluth housing commission met on April 11, 2002, and recommended approval of the plan to the city council;

NOW, THEREFORE, BE IT RESOLVED, that the 2003 city of Duluth low income housing tax credit qualified allocation plan, on file in the office of the city clerk as Public Document No. 02-0513-20, is hereby approved.

Resolution 02-0288 was unanimously adopted.
Approved May 13, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of that on file in the office of the city clerk as Public Document No. 02-0513-21, to City Contract No. 18922 with HRA increasing the amount payable under the agreement by \$45,172, for a total contract amount of \$434811, payable from 2001 Federal HOME Program Fund 0260, HRA homeowner rehabilitation project, Agency 020, Org. 2661, Obj. H003.

Resolution 02-0306 was unanimously adopted.
Approved May 13, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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. 02-0513-22 to City Contract No. 18912 with Habitat amending the contract to provide for subordination of mortgage liens taken under the agreement to subsequent mortgage liens upon the approval of the manager with no change in contract amount.

Resolution 02-0313 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2000, 2001 and 2002 CDBG accounts; and

WHEREAS, the community development committee (CD committee) for the CDBG program passed a transfer resolution; and

WHEREAS, the following properties have been condemned for demolition by the building official: 4904 Recycle Way (box factory), 315 West Second Street (Lincoln Hotel) and 222-224 West Third Street (San Marcos); and

WHEREAS, each of these properties has a blighting influence on the neighborhood and each poses a public safety threat; and

WHEREAS, CDBG funds can be used to eliminate slum and blight conditions on a spot basis in accordance with 24 CFR 570.208 (b)(2).

NOW, THEREFORE, BE IT RESOLVED, that the city council makes the findings that the aforementioned properties pose a public safety and are a blight on the neighborhoods.

BE IT FURTHER RESOLVED, that the proper city officials are authorized to make the following fund transfers in the Federal Program Fund 262 - 2000, 2001 and 2002 HUD-funded community development accounts as set forth below:

2000 CDBG transfers				
Project #	Project	Budget amount	New amount	Amount of increase or decrease
6317	Community Job Partnership	\$265,000	\$190,000	\$(75,000)
6337	Contingency	\$28,000	\$0	\$(28,000)
2001 CDBG transfers				
6406	Citywide street assessments	\$160,000	\$65,576	\$(94,424)
6437	Contingency	\$7,145	\$0	\$(7,145)
2002 CDBG transfers				
6540	Contingency	\$26,493	\$0	\$(26,493)
6514	Hillside Streetscape Phase V	\$0	\$71,404	\$71,404
6516	Project SOAR - Career Dev	\$113,476	\$133,476	\$20,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Project #	Project	Budget amount	New amount	Amount of increase or decrease
6520	Acquisition and demolition	\$0	\$139,658	\$139,658

Resolution 02-0315 was unanimously adopted.
 Approved May 13, 2002
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to apply to MHFA for a \$1,500,000 allocation of CASA program funding and an application for ECHO program funding, said funds to be loaned to low and moderate income first-time home buyers at below market interest rates.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into the CASA program and ECHO program application-commitment agreements, substantially in the form of those on file in the office of the city clerk as Public Document No. 02-0513-23, with MHFA.

Resolution 02-0318 was unanimously adopted.
 Approved May 13, 2002
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the following street, alley, pedestrian and utility easements legally described as:

Worth Street adjoining Lots 6-12, Blocks 19 and 22, Oakland Park Addition;
 alley adjoining Blocks 14 and 19, Oakland Park Addition;
 utility easement in vacated Worth Street adjoining Blocks 20 and 21 in Oakland Park

Addition;

utility easement in alley adjoining Blocks 21 and 28 in Oakland Park Addition;
 northerly 1/2 of Lyons Street adjoining Lot 27, Block 10, Superior View Addition, First

Division;

alley in Block 12 and Block 19, Superior View Addition, Second Division retaining the full right-of-way as a utility easement;

utility easement in the westerly 33 feet of Junction Avenue between Blocks 11 and 12, Superior View Addition, Second Division;

utility easement along that portion of vacated Lyons Street lying west of a line drawn ten feet east of and parallel to the east line of Brainerd Avenue, and lying south of a line drawn ten feet north of and parallel to the south line of Lyons Street in Superior View Addition, Second Division;

Jackson Street adjoining Block 6 and Block 7, Clover Hill Division;
 alley adjoining Lots 1 and 2, Block 14, and Lots 6, 7 and 8, Block 15, Motor Line

Division;

Montrose Avenue adjoining Blocks 9 and 10 and the intersection of Gold Street and Montrose Avenue, Motor Line Park Division, retaining the east 33 feet of the requested area and the entire intersection of Gold and Montrose as a utility easement;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

utility easement on southerly 20 feet of Gold Street and easterly 25 feet of Gold Street lying between Blocks 7 and 10 in Motor Line Park Division;

utility easement in vacated Montrose Avenue adjoining Blocks 3, 4, 5 and 6, Motor Line Park Division;

utility easement in vacated Worth Street adjoining Blocks 3, 4, 5 and 6, Motor Line Park Division;

utility easement in vacated alley adjoining Blocks 5, 6, 7 and 8, Motor Line Park Division;

alley adjoining Lots 1, 3, 5, 7, 9, Block 1, Superior View Addition, First Division, and Lots 4-6, Block 32, Nortondale Development Second Division;

alley adjoining Lots 1-27 (odd only), Block 10, Superior View Addition, First Division and Lots 1-7, Block 33, Nortondale Development, First and Second Divisions; 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 March 27, 2002, meeting.

NOW THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacations described above and as more particularly described on Public Document No. 02-0513-24.

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

BE IT FURTHER RESOLVED, that the city council approves, and the proper city officials are authorized to accept and record documents, for the following rights-of-way:

replacement easement over the easterly 33 feet of Junction Avenue between Blocks 11 and 12, Superior View Addition, Second Division;

that portion of as built Junction Avenue and Buffalo Street extension through Lots 1-29 (odd numbered lots), Block 11, Superior View Addition, Second Division, and certain parts of University Circle Addition (using 1975 city plat sketch for legal descriptions) quit claim deed to be issued;

dedication of 50 foot wide alleyway easement (extension of Carver Avenue) into vacated Nortondale Development Second Division, adjacent to the west side of Blocks 1, 2 and 12, Motor Line Division, with reverter clause; and

a 16 foot strip along the northerly side of Nortondale Development, First Division (the southerly 16 feet of St. Marie Street).

Resolution 02-0216 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

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 2002

File No.	Applicant	Plat	Parcel	Legal Description	Taxpayer Name	Location
02019	Habitat for Humanity	0890	04490	Duluth Heights Sixth Division, Lot 11, Block 12	State of MN CHP 278 L of 35	Block 12, northwest of the intersection of Linden Street and Hugo Avenue
			04500	Duluth Heights Sixth Division, Lot 12, Block 12		
			04510	Duluth Heights Sixth Division, Lot 13, Block 12		
			04520	Duluth Heights Sixth Division, Lot 14, Block 12		
			04530	Duluth Heights Sixth Division, Lot 15, Block 12		
			04540	Duluth Heights Sixth Division, Lot 16, Block 12		
			4570	Duluth Heights Sixth Division, Lot 17, 18, 19, Block 12		
			04890	Duluth Heights Sixth Division, Lot 9, Block 13, including part of vacated street and alley adjustment	Titleholder - State of Minnesota	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

File No.	Applicant	Plat	Parcel	Legal Description	Taxpayer Name	Location
			04900	Duluth Heights Sixth Division, Lots 10 - 19, Block 13 including part of vacated alley adjustment	State of MN CHP 278 L of 35	Block 13, northwest of the intersection of Linden Street and Hugo Avenue

Resolution 02-0253 was unanimously adopted.
 Approved May 13, 2002
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

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

File No.	Applicant	Legal Description	Location
02020	Duluth/North Shore Sanitary District	west 1/2 of Lot 3 and all of Lots 6, 7, 8 and 9, except Highway ROW, Block 50, Lester Park Fourth Addition, Parcel ID Numbers: 2860-00040, 2860-00100, 2860-00110, 2860-00120, 2860-00130	between the North Shore Scenic Railroad and East Superior Street east of the Two Harbors Expressway
02021	Scott Occhino, St. Louis County Land Department	Lot 4, Block 52, Gary First Division, Parcel ID Number: 1800-13700	northeast of the intersection of House Street and 96th Avenue West

Resolution 02-0254 was unanimously adopted.
 Approved May 13, 2002
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

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 2002

File No.	Applicant	Legal Description	Location
02023	Housing and Redevelopment Authority c/o Richard Ball	Lot 15, except southerly 17 feet for boulevard and Lots 8 - 16, even numbered lots, Block 152; Lots 24-28, Block 154; Lots 7-13, odd numbered lots, Block 170 Parcel ID Numbers: 1350-12420, 1350-12480, 1350-12800, 1350-12810, 1350-15090	above and below 11th Street at North First Avenue West (unbuilt) and below 11th Street east of North First Avenue East

Resolution 02-0264 was unanimously adopted.
Approved May 13, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

BE IT RESOLVED, that the city of Duluth (city) act as the legal sponsor for the project contained in the business and community development application to be submitted on May 20, 2002, and that the mayor of the city is hereby authorized to apply to the Minnesota department of trade and economic development for funding of this project on behalf of the city.

FURTHER RESOLVED, that the city has the legal authority to apply for financial assistance, and the institutional, managerial, and financial capability to ensure adequate construction, operation, maintenance and replacement of the proposed project for its design life.

FURTHER RESOLVED, that the city has not incurred any costs and has not entered into any written agreements to purchase property.

FURTHER RESOLVED, that the city has not violated any federal, state, or local laws pertaining to fraud, bribery, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

FURTHER RESOLVED, that upon approval of its application by the state, the city may enter into an agreement with the state of Minnesota for the above-referenced project and that the city certifies that it will comply with all applicable laws and regulations as stated in all contract agreements and described on the compliance Section (S-7) of the business and community development application.

FURTHER RESOLVED, that the city will obtain credit reports and credit information from Northstar Machine & Tool Company, Inc. (Northstar). The city and its city attorney will review the reports and information to ensure that no adverse findings or concerns regarding, but not limited to, tax liens, judgments, court actions, and filings with state, federal and other regulatory agencies are identified. Failure to disclose any such adverse information could result in revocation or other legal action.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements, and amendments thereto, as are necessary to implement the project on behalf of the city; all grant funds to be deposited into Fund 0235, Duluth revolving loan fund.

Resolution 02-0300 was unanimously adopted.
Approved May 13, 2002
GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that the city council hereby requests the Charter Commission to recommend adoption of an ordinance amending sections 2, 2(A), 6, 8, 11, 14, 26, 27, 60(A), 68 and 70 of the City Charter, which proposed ordinance is on file in the office of the city clerk as Public Document No. 02-0513-25.

Resolution 02-0243 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to submit a local service unit plan amendment for the provision of workforce development services to residents of the city of Duluth which is coordinated with St. Louis County's L.S.U. (local service unit) plan for state fiscal year 2003 (July 1, 2002, through June 30, 2003). Said amendment modifies services to meet the requirements of Special Session Laws of Minnesota 2001 that require implementation in state fiscal year 2003. A copy of this plan will be on file in the city clerk's office as Public Document No. 02-0513-26. Revenue derived as the local service unit will be deposited in Fund 0268.

Resolution 02-0285 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with Lake Superior College for customized computer training to eight older workers for the period May 9, 2002, to July 11, 2002, at a cost not to exceed \$3,744.24. A copy of this agreement shall be on file at the city clerk's office as Public Document No. 02-0513-27.

FURTHER RESOLVED, that costs incurred shall be charged to Fund 0271, Budget Item 6333.

Resolution 02-0316 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with Lake Superior College for customized customer service training to eight older workers for the period May 7, 2002, to August 20, 2002, at a cost not to exceed \$2,681.28. A copy of this agreement shall be on file at the city clerk's office as Public Document No. 02-0513-28.

FURTHER RESOLVED, that costs incurred shall be charged to Fund 0271, Budget Item 6333.

Resolution 02-0317 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to submit a Workforce Investment Act and Minnesota youth program plan amendment for the provision of workforce develop-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

ment services to the residents of the city of Duluth for fiscal year 2003 (April 1, 2002, through March 31, 2003, for the workforce investment act and July 1, 2002, through June 30, 2003, for the Minnesota youth program). Said amendment modifies the five year plan for youth services to reflect the policy changes, services and activities changes, and annual allocation/budget. A copy of this plan will be on file in the city clerk's office as Public Document No. 02-0513-29. Revenue derived from the Workforce Investment Act youth program for the 2003 budget year will be deposited in Fund 0268, budget items 6254 and 6255. Revenue derived for the 2003 budget year from the Minnesota youth program will be deposited in Fund 0268, Budget Item 6256.

Resolution 02-0326 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Northland Bituminous (\$106,773) and Lakehead Blacktop (\$94,727) be and hereby is awarded a contract for furnishing and delivering bituminous materials for the maintenance operations division and utility operations division in accordance with specifications on its low specification bid for a total of \$201,500, terms net 30, FOB picked up, \$168,000 payable out of General Fund 0100, Dept./Agency 500, Organization 2000, and Object 5232; \$19,000 payable out of Water Fund 0510, Dept./Agency 500, Organization 1945, Object 5232; \$6,000 payable out of Gas Fund 0520, Dept./Agency 500, Organization 1945, Object 5232; \$3,000 payable out of Sewer Fund 0530, Dept./Agency 500, Organization 1945, Object 5232 and \$5,500 payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1945, Object 5232.

Resolution 02-0267 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and the regents of the University of Minnesota for professional and technical services needed in conjunction with the city's stream monitoring program for a consideration not to exceed \$59,728, to be paid from General Fund 0210, Agency 030, Org. 2141, Object 5319.

Resolution 02-0283 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for one hydraulic excavator for the utility operations division in accordance with specifications on its low specification bid of \$154,433.52, terms net 30, FOB destination, \$61,773.41 payable out of Water Fund 0510, Dept./Agency 500, Organization 1905, Object 5580; \$30,886.70 payable out of Sewer Fund 0530, Dept./Agency 500, Organization 1905, Object 5580; \$61,773.41 payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5580.

Resolution 02-0289 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BY COUNCILOR STOVER:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction year 2002 street improvement of Congdon Park West Lower-III for the engineering division in accordance with specifications on its low specification bid of \$471,721.73, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0202, Object 5530.

Resolution 02-0290 was unanimously adopted.

Approved, May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 00-0123 to Camp Dresser McKee, Inc., for the utility study for the Morgan Park area, be amended to increase the amount by \$15,462 for a new total of \$43,482, payable out of various funds, depts./ agencies, organizations, objects.

Resolution 02-0292 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for construction of year 2002 street improvement at Woodland West for the engineering division in accordance with specifications on its low specification bid of \$543,768.24, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0206, Object 5530.

Resolution 02-0293 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Housing and Redevelopment Authority (HRA) be and hereby is awarded a contract for furnishing professional right-of-way and easement acquisition services for year 2002 street and utility improvement projects for the engineering division in accordance with specifications on its low specification bid of \$20,000 terms net 30, FOB destination, payable out of various funds, depts./agencies, organizations, objects.

Resolution 02-0295 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Carlson Brothers (\$77,100); East Central Basement Waterproofing (\$81,000); Humes Plumbing & Heating (\$71,100); Northland Builders & Remodeler (\$75,000); Northern States Basement System (\$82,800); Stout Mechanical (\$71,100); Tim's Landscaping & Sump Pump (\$75,000) be and hereby are awarded contracts for I&I separation/discharge to disconnect and install 50 sump pumps by each vendor (total of 350 sump pumps) at various locations in the Lakeside area for the utility operations division in accordance with specifications on its low specification bid of a total amount of \$533,100, terms net 30, FOB job site, payable out of Sewer Fund 0530, Dept./Agency 500, Organization 1970, Object 5482.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Resolution 02-0296 was unanimously adopted.
Approved May 13, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for rental of 16 Caterpillar Model 143H motor graders for six months each for a total of 84 months during the year 2002/2003 winter season for the street maintenance division in accordance with specifications on its low specification bid of \$430,941.60, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 500, Organization 2000, Object 5415.

Resolution 02-0297 was unanimously adopted.
Approved May 13, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Duluth Superior Blacktop, Inc., be and hereby is awarded a contract for the year 2002 fine mix paving program for the engineering division in accordance with specifications on its low specification bid of \$87,864, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2176, Object 5530.

Resolution 02-0298 was unanimously adopted.
Approved May 13, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to complete engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for preliminary and final design for the rehabilitation of Bridge No. L6123 over Chester Creek at East First Street; and

WHEREAS, L.H.B. Architects and Engineers has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with L.H.B. Engineers and Architects to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$7,771, will be payable from the Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2181, Object 5530; to be reimbursed from municipal state aid (MSA) funds.

Resolution 02-0302 was unanimously adopted.
Approved May 13, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to complete engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for preliminary and final design for the rehabilitation of Bridge No. L6122 over Chester Creek at East Superior Street; and

WHEREAS, L.H.B. Architects and Engineers has submitted a proposal for engineering services in connection with this project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with L.H.B. Engineers and Architects to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$31,211, will be payable from the Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2180, Object 5530; to be reimbursed from municipal state aid (MSA) funds.

Resolution 02-0303 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to complete engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for preliminary and final design for the rehabilitation of Bridge No. 93402 over Chester Creek at East Second Street; and

WHEREAS, L.H.B. Architects and Engineers has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with L.H.B. Engineers and Architects to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$42,514, will be payable from the Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2182, Object 5530; to be reimbursed from municipal state aid (MSA) funds.

Resolution 02-0304 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Daffinson Asphalt Maintenance, Inc., be and hereby is awarded a contract for year 2002 street crack sealing program for the maintenance operation division in accordance with specifications on its low specification bid of \$55,944, terms net 30, FOB job site, payable out of General Fund 0100, Dept./Agency 500, Organization 2000, Object 5403.

Resolution 02-0305 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement between the city of Duluth and Great Lakes Gas Transmission Limited Partnership for interconnection to their natural gas pipeline facilities; said agreement filed as Public Document No. 02-0513-30. The city's cost for this interconnection, which is \$100,000, is payable from Fund 0521, Agency 500, Object 5532.

Resolution 02-0308 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

RESOLVED, that United Piping, Inc., be and hereby is awarded a contract for construction of gas mains and services at various locations throughout the city for the utility operations division in accordance with specifications on its low specification bid of \$149,625, terms net 30, FOB job site, payable out of Gas Fund 0520, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 02-0310 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Midway Contractors be and hereby is awarded a contract for construction of a six inch watermain replacement in Lakewood Road from East Superior Street to Bullitt Street for the utility operation division in accordance with specifications on its low specification bid of \$148,295.75, terms net 30, FOB job site, payable out of Water Construction Bond Fund 0511, Dept./Agency 500, Object 5532.

Resolution 02-0311 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 00-0396 to Northland Bituminous, Inc., for the bituminous surface restoration on East Superior Street from 47th Avenue East to 60th Avenue East, be amended to increase the amount by \$215,426.21 for a new total of \$1,003,452.99, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2138, Object 5530. The amount of \$824,105.71 will be reimbursed from municipal state aid turnback funds.

Resolution 02-0312 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Duluth Superior Erection, Inc., be and hereby is awarded a contract for the sanitary and storm manhole adjustment program for the engineering division in accordance with specifications on its low specification bid of \$88,000, terms net 30, FOB job site, \$44,000 payable out of Sewer Construction Bond Fund 0531, Dept./Agency 500, Object 5532 and \$44,000 payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 02-0322 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 01-0625 to Ayres Associates, Inc., for the professional engineering services for design of a sanitary sewer network to and in Fond du Lac, be amended to increase the amount by \$51,150 for a new total of \$232,829, \$34,987.50 payable out of Sewer Construction Bond Fund 0531, Dept./Agency 500, Object 5532 and \$16,162.50 payable out of Water Construction Bond Fund 0511, Dept./Agency 500, Object 5532.

Resolution 02-0323 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 01-0324 to Short Elliot Hendrickson, Inc., for the professional engineering services for traffic study and signal design and drainage study and hydraulic design for Arrowhead Road between Dodge Avenue and Woodland Avenue, be amended to increase the amount by \$66,500 for a new total of \$90,00, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2112, Object 5530; to be reimbursed by municipal state aid (MSA).

Resolution 02-0324 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to complete a revenue neutral rate structure; and
WHEREAS, the city desires to hire a consultant engineer to provide the consulting services required for the wastewater rate study for the sanitary sewer utility customers; and

WHEREAS, Short Elliot Hendrickson, 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 Short Elliot Hendrickson, Inc., to provide the city with such consulting services.

BE IT FURTHER RESOLVED, that the cost of said consulting services, estimated at \$8,000, payable from the Sewer Fund 0530, Dept./Agency 500, Organization 1915, Object 5310.

Resolution 02-0327 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

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. 02-0513-31, with the state of Minnesota, department of natural resources, authorizing the city to perform certain maintenance at the Clyde Avenue (Munger access) and Rice's Point boat launch sites, in consideration of \$1,500 to be paid by the department of natural resources to the city. Reimbursements received shall be deposited into public works and utilities department, street and park maintenance division, General Fund 100, Department 500, Division 1920, Revenue Source 4230.

Resolution 02-0325 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 02-0286, by Councilor Stewart, confirming appointments to new human rights commission, was introduced for discussion.

Councilor Stewart moved to divide the resolution to consider the two new appointees separately, which motion was seconded and unanimously carried.

Resolution 02-0286(a) was adopted as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BY COUNCILOR STEWART:

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

HUMAN RIGHTS COMMISSION

Leslie Gibbs, Kamal Gindy, Cruz Mendoza and John Staine for terms expiring April 20, 2003.

Carl Crawford, Gary Gordon, Robert Jansen and Jane Maddy for terms expiring April 20, 2004.

Neil Glazman, Kerry Gauthier, William Jackson, James Prest and Sally Spellerberg for terms expiring April 20, 2005.

Resolution 02-0286(a) was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0286(b) was tabled for interviews upon a unanimous vote.

- - -

BY COUNCILOR GILBERT:

WHEREAS, the day of May 23, 2002, has been designated as Community Development Day, Duluth, Minnesota, in which Duluth is a participant in the community development block grant program which funds a myriad of public facility improvements, public social services, economic development and housing programs in this community, and

WHEREAS, in the city of Duluth and in communities throughout the nation, 28 years of community development block grant program funding has developed a strong network of relationships between local government, residents and the many nonprofit agencies that provide services and help make possible our 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 the services funded by the federal community development block grant program, administered by the local government and often delivered by local nonprofit organizations, relies heavily on the dedication of and good will of our combined efforts.

NOW, THEREFORE, BE IT RESOLVED, that on Community Development Day 2002, the city of Duluth will give special thanks and recognition to all participants whose hard work and devotion to the neighborhood and their low and moderate income residents that help insure the quality and effectiveness of the community development block grant program.

BE IT FURTHER RESOLVED, that the city of Duluth, along with the service providers and others whose names are appended to this resolution, hereby petition the U.S. Congress and administration to recognize the outstanding work being done locally and nationally by the community development block grant program, and of its vital importance to the community and to the people who live in its lower income neighborhoods.

BE IT FURTHER RESOLVED, that copies of this resolution be conveyed to the appropriate elected and appointed officials of the federal government and that the city of Duluth, and all of its nonprofit service providers, 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 over the course of the next session of congress.

Resolution 02-0319 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

- - -

Resolution 02-0249, by Councilor Stenberg, requesting the board of county commissioners of St. Louis County to reclassify from conservation to nonconservation and to offer for sale certain tax forfeited parcels now withheld from sale in conservation (Turcotte), was introduced for discussion.

Councilor Hogg reviewed the request from the Spirit Valley Citizens Neighborhood Development Association to oppose the resolution so that the site would be allowed to remain in inventory to be available as a new buildable home site, which is sorely needed.

Resolution 02-0249 failed upon a unanimous vote (Public Document No. 02-0513-32).

- - -

BY COUNCILOR STOVER:

RESOLVED, that Reuben Johnson and Son, Inc., be and hereby is awarded a contract for construction of sanitary sewer and watermain at Fond du Lac for the engineering division in accordance with specifications on its low specification bid of \$2,655,555, terms net 30, FOB job site, \$1,700,000 payable out of Sewer Construction Bond Fund 0531, Dept./Agency 500, Object 5532 and \$955,555 payable out of Water Construction Bond Fund 0511, Dept./Agency 500, Object 5532.

Resolution 02-0291 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement between the city of Duluth and Northern Natural Gas company for the transportation and storage of natural gas for the city's gas utility; said agreement filed as Public Document No. 02-0513-33.

Resolution 02-0307 was unanimously adopted.

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0320, by Councilor Stauber, authorizing the parks and recreation department to issue six individual golf passes to KBJR-TV in return for an equal value of golf course television advertising, was introduced for discussion.

Councilor Gilbert expressed his concern that the city should use the same usual and recognized form of currency as everyone else, in that other businesses should be given the chance to apply, and that other competitors may have the need for cash and not for the passes.

Resolution 02-0320 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to direct the parks and recreation department of the city to issue six individual season golf passes good for play at Enger Park and Lester Park golf courses to KBJR-TV in exchange for \$3,000 worth of television advertising for said Enger Park and Lester Park golf courses as set forth in Public Document No. 02-0513-34.

Resolution 02-0320 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Hogg, Stauber, Stenberg, Stewart and President Ness -- 7

Nays: Councilors Gilbert and Stover -- 2

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR STOVER

02-013-O - AN ORDINANCE CONVEYING A HIGHWAY EASEMENT IN CERTAIN PROPERTY NEAR McCUEN STREET TO THE STATE OF MINNESOTA FOR A CONSIDERATION OF \$17,620.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR STENBERG

02-006 (9533) - AN ORDINANCE AMENDING SECTIONS 50-1.7, 50-1.8, 50-35, 50-56, 50- 68 AND 50-72 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO BED AND BREAKFAST INNS AND COUNTRY INNS.

Councilor Gilbert moved to amend the ordinance as follows:

“(a) Amend subsection (F) in Section 50-35(d)(3) to read as follows:

(F) Dining areas shall not exceed three seats per habitable unit in bed and breakfast inns. In bed and breakfast country inns, allowed under this Section, dining areas shall not exceed five seats per habitable unit. Event activities on the premises that generate a profit for the proprietor and involve a total number of participants in excess of the approved dining area seating capacity shall be limited to: four group events per year sponsored in cooperation with other Duluth bed and breakfast facilities; plus two events per year sponsored by an individual bed and breakfast facility;

(b) Delete the last sentence of Section 50-35(d)(3)(C);

(c) Add to the end of Section 50-35(d)(3)(C) the following language: ‘or the owner and occupant of no more than one additional bed and breakfast facility located in the city of Duluth, in which case a resident manager must occupy the premises overnight whenever guests are present’;

(d) Add the following language to the beginning of Section 50-35(d): ‘The city council recognizes that bed and breakfasts are an asset to the community and help the preservation of historic homes and neighborhoods and help the economy of the region as small businesses’,” which motion was seconded and discussed.

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

David LeTournea, Kay Lewis, Barb Truemen, Tom Kell, Alan Fink, Karl Casperson, Bill Brakken, Ken Aparicio and Dave Lee spoke in favor of the ordinance and/or amendments, citing reasons of: bed and breakfasts are an asset to the neighborhood; a disruption to the neighborhood is not what a bed and breakfast owner would want; neighbors of a bed and breakfast can have unlimited events and have unlimited alcohol consumed; these changes are only to affect bed and breakfasts that are in R-1 zoning, thus this only affects four establishments; bed and breakfasts do not want to become restaurants because with health department standards, it is not financially advantageous; this is not a single family residential area now because there are already duplexes, student housing, a music conservatory, group homes and home businesses in this area; the clientele of a bed and breakfast come because they want a quiet solitude and do not over indulging in drinking; this request is only to have two additional events in their own inns; the 12 bed and breakfasts preserve the values of those buildings and the neighbors; the guests of these inns spend an average of \$50 a day in other businesses and assist in promoting other events and locations for their guests; bed and breakfast owners would like to share the history and beauty of

the inns with local residents in addition to tourists; Duluth is one of the guiding lights for all of the bed and breakfasts in the state; the additional revenue from small gatherings, mostly in the off season, would assist in maintaining an adequate income to preserve these historic buildings; any other citizen can own an unlimited number of properties; before there were bed and breakfasts some of these houses were used for such things as an apartment building, a truck engine repair shop, a radio station, a home business with a dozen employees and student rentals; the activities proposed are more desirable than the other previous activities; the running of a small business of a bed and breakfast in a house of approximately 16,000 square feet requires a large amount of revenue to cover restoration costs and slow times; there are less restrictions on large houses that have many students living there; and families have moved into the neighborhood, noting that the bed and breakfasts are good neighbors.

Charles Drexler, Chuck Melberg, Huck Andresen, Ann Lenz, Kathy Carlson and Randolph Peterson spoke in opposition to the ordinance and/or amendments, citing reasons of: the proposed increase in the number of allowable special events could result in many more cars where there will be the serving of alcoholic beverages; the number of allowable events can not be verified and supervised; the question is not the bed and breakfasts, but what businesses should be allowed to operate in a R-1 zone; this is not a single neighborhood issue, it is a citywide zoning issue; other cities have concerns about their residential neighborhoods and have limited bed and breakfast activities to only the overnight lodging and breakfast of registered guests; bed and breakfast businesses are allowed to grow in other than R-1 zones; owners should be required to live in a bed and breakfast to have a bed and breakfast; concern of what the bed and breakfasts could become, with the changes proposed, in that it is not a bed and breakfast anymore; there needs to be better definition of what an "event" means and how many guests are allowed to attend an event; the planning commission recommendations take into consideration the concerns of both sides and is a compromise; the city has a covenant with residents to upholding the zoning laws; and there is no maximum density for bed and breakfasts.

Councilor Stauber stated that he would be opposing all the amendments because the planning commission reviewed them and unanimously opposed them.

Amendment (d), relative to Section 50-35(d), carried upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stenberg, Stewart, Stover and President Ness -- 8

Nays: Councilor Stauber -- 1

Amendment (c), adding language to Section 50-35 (d)(3)(C), was discussed. Councilors opposing the amendment cited the reasons of: the importance of the R-1 zoning; there are opportunities to operate a unlimited number of bed and breakfasts in any other zoning area; and the special use permit which allows uses in a R-1 zone specifies that it be owner operated.

The amendment failed upon the following vote:

Yeas: Councilors Bergson, Gilbert, Stewart and Stover -- 4

Nays: Councilors Atkins, Hogg, Stauber, Stenberg and President Ness -- 5

Amendment (b), deleting proposed language in Section 50-35(d)(3)(C), passed upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stenberg, Stewart, Stover and President Ness -- 8

Nays: Councilor Stauber -- 1

Amendment (a), relative to Section 50-35(d)(3)(F), was discussed. There was lengthy council discussion relative to aspects of the amendment, how it was worded and procedural aspects.

There being no further discussion, there was a motion to table the amendment, which motion was seconded and unanimously carried.

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

[Editor's Note: This ordinance was reconsidered and amended on May 28, 2002.]

- - -

The meeting was adjourned at 10:20 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9533

BY COUNCILOR STENBERG:

AN ORDINANCE AMENDING SECTIONS 50-1.7, 50-1.8, 50-35, 50-56, 50- 68 AND 50-72 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO BED AND BREAKFAST INNS AND COUNTRY INNS.

The city of Duluth does ordain:

Section 1. That Section 50-1.7 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 50-1.7. Bed and breakfast inn.

An owner occupied building designed as a single family dwelling providing lodging accommodations by prior arrangements, for compensation. The primary residence in the building or a separate, lawfully existing building located on the same site must be occupied by the building owner on a permanent basis. It may or may not include serving of meals to guests.

Section 2. That Section 50-1.8 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 50-1.8. Bed and breakfast country inn.

A building designed as a single family dwelling containing habitable units providing no more than 12 guestrooms of lodging accommodations by prior arrangements, for compensation. It may or may not include serving of meals to guests and the general public.

Section 3. That Section 50-35 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 50-35. Enumerated.

The following are the special uses for which the city council may issue a special permit, as provided in Section 50-32:

(a) Airport, landing field or landing strip for all forms of aircraft, auto race track and drag strip;

(b) Amusement park, but not within 300 feet of any R district;

(c) Beauty salon in an R district, subject to the following restrictions and conditions:

(1) Such use shall be incidental and subordinate to the principal residential use conducted within a dwelling and not in an accessory building;

(2) At least 120 square feet but not more than 1/4 of the floor area of one story of the building shall be devoted solely to such use and to no other use;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

(3) Only one person shall work in the beauty salon and such person shall reside on the premises;

(4) There shall be no separate entrance to the beauty salon from the front of the building, and the applicant shall provide evidence of inspection and compliance with all applicable fire and building codes;

(5) No signs or displays advertising the salon shall be permitted on the premises;

(6) At least two off street parking spaces shall be available on the premises for use by patrons of the salon, such parking space requirement to be in addition to the parking space requirements otherwise applicable to the premises;

(7) Applicant shall, prior to issuance of a special use permit pursuant to this Section, provide proof that applicant has all required licenses for operation of a beauty salon;

(8) Notice and publication as required by Section 50-32.2 of this Code shall, in the case of permits under this paragraph, include mailed notice to all property owners and occupants of property within 200 feet of the building;

(9) No permit shall be granted pursuant to this paragraph if a beauty salon already exists within 1,000 feet of the premises;

(d) The city council recognizes that bed and breakfasts are an asset to the community and help the preservation of historic homes and neighborhoods and help the economy of the region as small businesses. Bed and breakfast inns and country inns; in districts where they are permitted as special uses and only as provided herein;

(1) This special use permit shall be granted only to those properties, which meet or exceed the criteria outlined herein. A bed and breakfast inn must be a residential building that has no greater impact on the uses of the public areas or infrastructure or natural resources of the neighborhood than, or be apparent to an observer to be other than, a the existing property used as a fully occupied private home with house guests. The principal building must appear outwardly to be a single family dwelling, giving no appearance of a business use other than allowed signs.

No permit shall be considered or issued for a bed and breakfast facility located closer than 450 feet to an existing bed and breakfast facility. This limitation may be waived by the city council for properties which are locally designated heritage preservation landmarks;

(2) An application for this special use permit shall include the following:

(A) A site plan as defined in Section 50-1.60;

(B) A landscape plan as defined in Section 50-1.40;

(C) A set of detailed floor plans indicating the traditional uses of all rooms and the intended uses in the bed and breakfast operation;

(D) Sign drawings showing location, dimensions and detail;

(E) For a waiver of the 450 foot separation, a copy of the resolution designating the properties as a heritage preservation landmark;

(3) Bed and breakfast inns and country inns may be granted special use permits subject to the following standards and conditions:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

(A) The property must be comprised of a minimum of 0.6 acre;

(B) The main residential building must contain a minimum of 1,500 square feet of area on the first floor;

(C) For an inn, the proprietor shall be the owner and occupant of the property;

(D) Off street parking for the uses of the property shall be provided on site as required in Section 50-26. Scattered off site parking shall not be allowed;

(E) All parking areas shall be hard-surfaced and visually screened by vegetation and/or fencing (consistent with the architecture of the structure) as required by the city in order to maintain the apparent single family use of the property;

(F) Dining areas shall not exceed three seats per habitable unit in bed and breakfast inns. In bed and breakfast country inns, allowed under this Section, dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in bed and breakfast inns not to exceed the approved seating capacity of the facility; event activities on the premises that generate revenue for the proprietor and involve a total number of participants in excess of the approved dining area seating capacity shall be limited to: the annual Victorian Tea and Duluth Yesterdays, as these events may be renamed from time to time;

(G) Any construction to restore buildings to historic condition, any construction of new buildings and any exterior alterations to the building must be authorized by the city council through this special use permit process;

(H) There shall be a limitation on the number of guest rooms permitted based on the size of the building, building code or fire code;

(I) Total signage on the property shall not exceed 12 square feet in size. Such signage shall complement the architecture of the structure;

(J) Guests' stays shall be limited to 21 consecutive days;

(K) A bed and breakfast establishment must comply with all building and fire code requirements. Inspections shall be conducted before special use permits or licenses are issued;

(L) The owner/operator shall present inspection reports from the city fire marshal and St. Louis County health department to the city clerk prior to the issuance of any licenses;

(M) Such other conditions deemed necessary by the planning commission and/or city council to ensure the use complies with the purpose of this Subsection;

(e) Cemetery, crematorium or mausoleum;

(f) Child care facility. A state licensed residential facility for care and treatment of children located within 100 feet of an existing state licensed residential program that has an administrative organization and structure approved under state law for providing shelter, food, training, treatment and other aspects of care of not more than six children, and is an extension of an existing facility licensed under state law.

Any such facility shall meet all other state licensing requirements for such facilities, be contiguous to or located not more than 100 feet from the existing licensed facility charged with operation of the facility, and must not present any external image other than that of a single family residence;

- (g) Circus or carnival grounds, but not within 300 feet of any R district;
- (h) Clinic of less than 10,000 square feet in floor area or institutions;
- (i) Commercial, recreational or amusement development for temporary or seasonal periods;
- (j) Commercial rooming house, but only in those districts where permitted as special use;
- (k) Commercial services and recreational uses in the IP industrial park district, as further defined in Section 50-123 of this Chapter;
- (l) Day care facility, but only in those districts where permitted as a special use;
- (m) Elderly congregate housing facility, but only in those districts where permitted as a special use;
- (n) Marina;
- (o) Mini storage facilities; subject to compliance with the following criteria:
 - (1) Located in a S zone;
 - (2) On a parcel not less than 7-1/2 acres in size with no less than 500 feet of frontage on a publicly maintained right-of-way;
 - (3) Development shall not increase the peak stormwater runoff from the site from its existing condition based upon a storm of 100 year frequency and 24 hour duration (5.25 inches of rainfall);
 - (4) Signage shall be limited to one 40 square foot illuminated pole and 20 square feet of non-illuminated wall signage. Signs shall not be located closer than ten feet to the front property line and no closer than 50 feet to any side property line;
 - (5) There shall be maintained a minimum of 50 feet of landscaped or naturally vegetated buffer from all property lines;
 - (6) There shall be a minimum structure setback of 100 feet from any property line;
 - (7) Storage area unit shall not exceed a 12 foot wall height and a floor area of 300 square feet;
 - (8) Lighting shall be limited so as not to illuminate beyond property lines;
- (p) Office building of a civic, religious or charitable organization, conducting activities primarily by mail and not handling merchandise or rendering services on the premises, but only within the R-4 district;
- (q) Petroleum soil treatment;
 - (1) Petroleum soil treatment in the form of land treatment (soil farming) shall be located in S-suburban zones and shall comply with the following criteria:
 - (A) That the pollution control agency (PCA) shall have reported to the planning department regarding the individual site and the possibility of any problems relative to issuance of PCA authorization for use of the site;

(B) The natural topography, drainage character, vegetation and use of the site shall not be altered beyond site preparation required for any listed permitted land use within the S-suburban zone. Specifically:

1. No vegetation shall be cut or removed from within state required setbacks except as required for installation of temporary roads;

2. Vegetation removal shall be minimal. Vegetation greater than six inches caliper shall not be removed except as determined necessary to accommodate minimal equipment clearances, and there shall be minimal preparation of the soil on the treatment area. Such preparation shall minimize disturbance of the topsoil and does not preclude the return of the site to listed permitted S-suburban zone land uses;

(C) All treatment areas must be planted to pasture grasses during treatment and replanted to the original vegetation after the treatment process has been completed;

(D) No sites shall be located within wetland, shore land or flood zones as defined by Chapter 51 of the Code;

(E) That the applicant shall maintain the treatment site in strict compliance with all conditions of this permit and associated state or federal permits;

(2) Petroleum soil treatments using biodegradation such as composting or aerobic treatment cells or other technologies as may be developed and approved by the PCA from time to time, shall be only permitted in M-1 and M-2 zones, and shall be subject to the standards (A), (B), (D) and (E) cited above;

(r) Power transmission line, review and approval to be provided for separately in each of two steps:

(1) A general corridor special use permit;

(2) A final design special use permit, under the following conditions and procedures:

(A) Submittal information for general corridor special use permits. In addition to other information required by the special use permit process, the applicant shall provide the following information with applications for general corridors:

1. A statement demonstrating the need for the proposed line;

2. Drawings showing the approximate location of a preferred route (having a width of less than 1,000 feet) and at least one alternative route. Included within each route shall be an intended center line and subject site and adjacent area information, the form of which shall be determined by the planning commission on existing topography, land uses, soils, vegetation, water courses, wetlands, major drainage ways, flood plains, rock outcroppings and scenic views. Drawings shall also indicate proposed general types, heights and ranges of spacing of supporting structures and related equipment such as pumping stations, although the specific type of line shall not be approved until the final design review;

3. A statement identifying potential locations of conflict such as adjacent scenic and residential areas and describing general proposed methods of dealing with such conflicts;

4. A statement addressing each applicable standard of Section 50-35(r)(4) below in regard to the preferred route and alternative routes;

(3) Submittal information for final design special use permits. In addition to information otherwise required by the special use permit process, the applicant shall provide the following for final design special use permits:

(A) Plans and profiles, the form of which shall be determined by the planning commission, showing the exact location of the center line and the exact location and design of supporting structures and related equipment as proposed by the applicant. Alternative potential designs of supporting structures shall also be presented;

(B) A landscaping plan and subject site and adjacent area information on existing topography, land uses, soils, vegetation, water courses, wetlands, major drainage ways, flood plains, rock outcroppings and scenic views in a form which shall be determined by the city planning commission;

(C) A statement addressing each applicable standard of Section 50-35(r)(4) below;

(4) Standards for approval. No special use permit shall be granted unless the following standards and conditions are met in addition to normal requirements of the special use permit process:

(A) For general corridor special use permits:

1. The public need for the route and facility as specifically proposed shall be demonstrated;

2. Where possible, lines shall avoid existing and potential urban density residential neighborhoods;

3. The applicant shall provide an evaluation of the future needs for additional transmission lines in the same general area as the proposed route and the advisability of utilizing structures capable of expansion of transmission capacity through multiple circuiting or design modification;

(B) For final design special use permits:

1. Where it is determined that a proposal would unduly harm adjacent property or property values, it shall be determined that no other feasible alternative to the proposal exists. Such consideration of alternatives shall include the underground placement of the line. Any consideration of feasibility of such underground lines shall include economic, technological or land characteristic factors. Economic considerations alone shall not render underground placement not feasible;

2. All structures shall be located and designed in such a way that they are compatible with surrounding land uses, scenic views and existing transmission structures with regard to height, scale, material, color and design;

3. Lines shall meet or exceed the National Electric Safety Code;

4. Electro-magnetic noise and interference with radio and television reception, as well as audible hum outside the line right-of-way, shall be minimized;

5. The cleared portion of the right-of-way shall be kept to a minimum and where vegetation will be removed, new vegetation consisting

of native grasses, shrubs and low growing trees shall be planted and maintained. Vegetative screening shall be utilized to the maximum extent consistent with safety requirements;

(C) For both general corridor and final design special use permits. The following standards shall apply in addition to those required above under general corridor and final design special use permits:

1. When routing transmission lines, the following shall be avoided unless no reasonable alternative exists: slopes of 20 percent grade or greater; intrusions into scenic areas such as streams, open water, valleys, overviews, ridge crests and high points; wetlands; forests, by running along the fringe rather than through the forests, and by utilizing open areas in order to minimize cutting, although leaving a strip at the outside for screening purposes; soils susceptible to erosion which would create sedimentation and pollution problems; areas of unstable soils which would be subject to extensive slippages; areas with high water tables, especially if construction requires excavation; open space recreation areas, including parks, golf courses, etc.; long views of lines parallel to highways and trails; airports; and parkways;

2. Routes shall utilize or parallel existing railroads and highway rights-of-way if possible. If such highway rights-of-way are developed the line and structures shall be sufficiently set back and screened in order to minimize view of the line and structures from the highway;

(5) Alteration of final design special use permit. Once the final design special use permit is issued, the applicant may change the height and location of structures for engineering purposes provided no structure height is increased or decreased by more than 20 percent of its approved height or moved more than 25 feet from its approved location. Should it be necessary to alter the height or location more than the amounts set forth herein, applicant must obtain the approval of the city planning commission after the commission has conducted its normal public hearing and notice procedures. The decision of the planning commission on any alterations shall be final unless appealed to the city council within ten days;

(s) Privately operated community building or recreation field;

(t) Any public or government owned or leased building not permitted in a particular district; provided that such permit shall run for a full period of the lease and that both lease and permit shall run for not less than ten years from date of permit;

(u) Radio or television broadcasting tower or station;

(v) Residential care facility, only in those districts where permitted as a special use;

(w) Residential rooming house, only in those districts where permitted as a special use;

(x) Riding stable;

(y) Solid waste disposal facility;

(1) Special use permits for solid waste disposal facilities and yard waste compost facilities shall be granted only under certain circumstances and under certain conditions;

(2) An application for this special use permit shall include the following:

(A) A complete legal description of the property and the specific site within the property description;

(B) A site plan as defined in Section 50-1.64;

(C) A landscape plan as defined in Section 50-1.65.7;

(D) A detailed plan schedule for excavation, grading, dumping, filling, covering, landscaping and closure of the facility;

(E) Engineering certification, signed by the project engineer, which must certify (with any exceptions listed) that the design for construction is in accordance with standards as set out in these regulations and state statutes and rules relating to the specific type of requested facility;

(F) Signage plans showing location, dimensions and detail;

(G) Drainage plan that provides for diversion of surface water around and away from the disposal area and does not increase the rate of runoff, from the predevelopment condition, from the site onto adjoining properties;

(H) Ground water monitoring plan as and if required by state statutes or rules;

(I) A detailed dust control plan for the facility and for roadways in and leading to and from the facility;

(3) Standards and conditions. Solid waste disposal facilities and yard waste composting facilities may be granted special use permits in S, M-1 and M-2 zones subject to the following:

(A) Setbacks, in M-2 zones, all aspects of the solid waste disposal operation shall be setback from all property lines a minimum of 150 feet. In S and M-1 zones the setback shall be 300 feet from all properties zoned other than M-2. Such setbacks shall be bermed and/or landscaped so as to be visually screened from adjacent properties and roadways. Natural vegetation shall be retained in such setbacks where practical. All aspects of yard waste composting facilities shall be set back 100 feet from all property lines;

(B) Licensing for all solid waste disposal operations and facilities as well as yard waste composting facilities shall comply with all state and Western Lake Superior Sanitary District requirements in accordance with Minnesota Statutes and agency rules;

(C) Solid waste disposal facilities for industrial waste shall only be allowed in M-2 zones. Such facilities shall be approved in the special use permit only for specified types of industrial waste;

(D) Solid waste disposal facilities for construction debris shall only be allowed in M-2 zones;

(E) Facilities for composting of yard waste shall not accept materials other than yard waste;

(F) No solid waste disposal facilities, except composting facilities, shall be permitted in a designated shoreland or flood plain zone nor in an identified wetland as these are defined in Chapter 51 of this Code;

(G) All filled areas shall be covered and vegetated in accordance with an approved schedule for filling, covering and vegetating. Further,

there shall be an approved plan as part of the special use permit for the vegetation and dust control of stockpiled cover material;

(H) There shall be no burning of materials;

(I) Facility locations shall have direct access to an arterial street and shall not access through a neighborhood. Increased traffic generated by the facility shall not have an adverse effect on the neighborhood. All roads leading to and from and within facilities located in S and M-1 zones shall be constructed with an approved, as part of the special use permit, dust free material;

(J) All vehicles transporting materials to or from the facility shall be covered;

(K) For sites in S and M-1 zones, there shall be no dumping or operations outside of buildings, nor delivery or removal of materials to or from the site occurring between the hours of 10:00 p.m. and 7:00 a.m.;

(L) Except for yard waste composting facilities there shall be no processing (separating or sorting) of materials outside of covered structures;

(M) Noise emanating from a building in which dumping, separating or other processing of material is performed shall not exceed 55db at any property line which abuts property zoned other than M-2;

(N) In S and M-1 zones there shall be no exterior lighting permitted except to provide security for buildings and parking areas. Where such lighting is permitted it shall be directed so no light source is visible from any property line;

(O) Compliance funding: in the absence of other compliance funding required by state permitting agencies, there shall be a bond, letter of credit or other security (including an account to accept deposits of tipping fees) acceptable to the city, prior to the issuance of a permit to ensure compliance with the terms of the permit and to ensure proper closure of the facility. Such bond, letter of credit or other surety shall provide for the amount of the closure costs estimated and certified by the project engineer for each phase of operation and final closure;

(z) Strobe lights, as defined in Section 10-36 of this Code, may be used on radio and television broadcasting towers exceeding 400 feet in height located in that area of the city commonly known as the tower farm within Section 28, Township 50, Range 14, subject to the following restrictions and conditions:

(1) Strobe lights may be used only when the north sky illumination on a vertical surface at the base of the tower is greater than five footcandles. Red obstruction lights must be used at all other times;

(2) Strobe installations shall be shielded so as not to be visible from ground elevation for a radius of two miles from the antenna base;

(3) Strobe installations will be allowed only on towers which are required by federal aviation administration regulations to be painted orange and white;

(aa) Drive-in theater in the S suburban district;

(bb) Tourist or trailer camp; provided, that such tourist or trailer camp shall comply with the applicable provisions of this Code and the laws of the state;

(cc) Essential municipal or public utility use, facility or building, other than a business office or production facility; provided that such use, facility or building shall be located in a S district only if its specific function requires that it be so located

in order to serve the immediate neighborhood, as opposed to serving a major portion of the community. Provided, that a substation which serves more than the immediate neighborhood may be granted a special use permit in S districts if such substation is located in such a manner that it is visually screened from adjacent properties and is located on a site of at least five acres;

(dd) Veterinarian or animal hospital; provided, that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, which are ordinarily permitted in the house and kept for company or pleasure) and that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a sound-proof building with adequate ventilation;

(ee) Wind energy conversion systems. WECS shall be permitted, provided that the existing or future uses permitted within adjacent properties are not adversely affected by: noise, radio or television signal interference, or safety conditions. Further provided, that such WECS be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower and in no case shall tower height exceed 200 feet. Further provided, that satisfactory visual screen buffers be provided at the edges of the property in order to mitigate aesthetic impacts upon the neighborhood.

Section 4. That Section 50-56 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 50-56. Permitted uses.

A building or premises in the R-1-a one-family residential district shall be used only for the following purposes:

(a) One-family dwelling;

(b) Two-family dwelling, provided that such dwelling is designed to protect and reflect the character of one-family residences. To this intent, in addition to those regulations otherwise set forth in this Code, the following requirements shall be observed:

(1) Single front entrance. Access to the second dwelling unit shall be either through a common hallway within one front entrance, or by means of a separate entrance at the side or rear of the building;

(2) Exterior stairways. No exterior stairways with a total vertical rise greater than five feet shall be permitted;

(3) Third floor exits. Any dwelling unit or portion thereof which is located on the third floor shall have two separate means of exit;

(4) Roomers. Any two-family dwelling located in a one-family residential district shall be for the exclusive occupancy by two families and no roomers shall be permitted;

(5) Roof character. Except for buildings in existence on May 11, 1980, and buildings constructed after May 11, 1980, which have been put to a lawful use other than a two-family dwelling for a minimum of five years, roofs shall have a minimum slope of 2-1/2 feet vertical rise to 12 feet of run;

(6) Minimum dwelling size. No two-family dwelling within a structure erected after May 11, 1980, shall contain a total of less than 1,800 square feet of floor area other than garages or utility rooms or basement or attic space not used for living quarters;

(7) Dispersion of dwellings. No two-family dwelling shall be constructed and no single family dwelling shall be converted to a two-family dwelling within a distance of 300 feet from any other two-family dwelling or multiple family dwelling located within the same block; provided, that no more than one two-family dwelling or multiple family dwelling shall be permitted within a block containing an area of 120,000 square feet or less;

(8) Required drawings. In addition to required plot plans, applications for building permits shall be accompanied by a complete set of four building elevations drawn at a scale of not less than 1/8 inch equals one foot, such elevations to indicate the size and location of all windows and doors, and the type of exterior materials;

(9) Limitations on variances. Notwithstanding its power to grant variances as set forth in Section 50-47 of this Code, the board of zoning appeals shall not grant any variance from the requirements for the allowance of two-family dwellings in a one-family residential district; provided that such board may grant a variance reducing by not more than ten percent the minimum dimensional requirements for allowance of a two-family dwelling in a one-family residential district if the findings required by Section 50-47(b) of this Code are made by such board;

(c) Agricultural uses primarily for home consumption, such as domestic gardening, berry or bush crops, tree crops, flower gardening, nurseries, orchards, aviaries and apiaries, including a greenhouse, but not including a salesroom or roadside stand;

(d) Publicly owned or operated forest reserve, park, playground or community building, museum, library or art gallery; provided, that any such building shall be located not less than 25 feet from any side lot line;

(e) Church or other place of worship or Sunday school; provided, that any such building shall be located not less than 25 feet from any side lot line;

(f) Public school, elementary and high, university, college, parochial school or private school having a curriculum similar to that ordinarily given in public schools; provided, that any such building shall be located not less than 40 feet from any side or rear lot line; and provided further, that there shall be no rooms regularly used for housing or sleeping purposes, except staff quarters when located on the premises for the school;

(g) Golf club grounds with an area of not less than 30 acres. A miniature course or practice driving tee operated for commercial purposes is not permitted;

(h) Home occupation;

(i) Subject to the provisions of Section 50-24, accessory building or use, including a private garage customarily incident to the above uses, but not involving the conduct of a business; provided, that any such accessory building shall be erected at the same time or after the construction of the principal building;

(j) Residential boat dockage under the following conditions:

(1) General provisions:

(A) Dockage of boats owned and primarily used by a resident of the property in question is a permitted accessory use to the primary residential use and shall not be limited in number;

(B) The rental or use of boat dockage spaces on property on which there is a residential structure by owner of boats not residing on the

property in question is a permitted accessory use to the primary residential use, but only if such rental or use is limited to two boats, for every residence having frontage on an improved street;

(C) The boat dockage use of a property that is not residentially developed is permitted as a principal use provided that:

1. The use is limited to one boat for each lot or group of contiguous lots in the same ownership; and
2. The boat is owned and primarily used by the owner of the property;

(2) Off street parking. For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other off street parking spaces required by other legal uses of the property, such spaces to be constructed in accordance with Article III (off street parking and loading requirements) of this Code [Chapter];

(3) Proof of adherence to Code. At the request of the city building inspector or zoning inspector, the owner of property shall promptly provide boat registration or other documentary evidence to prove adherence to this Code;

(4) Commercial use prohibitions. No buildings other than residential or residential accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays, and other commercial uses shall be permitted;

(k) One wind energy conversion system shall be permitted as an accessory use, provided that the tower shall be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower, but in no case shall tower height exceed 130 feet;

(l) Residential care facility serving six or fewer persons;

(m) Day care facility serving 12 or fewer persons and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to serve 14 or fewer children;

(n) Residential care facility serving seven or more persons, provided a special use permit is secured according to the procedures set forth in Article IV;

(o) Elderly congregate housing facility containing 12 or fewer habitable units, provided a special use permit is secured according to the procedures set forth in Article IV;

(p) Bed and breakfast inn, provided a special use permit is secured according to the procedures set forth in Article IV.

Section 5. That Section 50-68 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 50-68. Permitted uses.

A building or premises in the R-2 two-family residential district shall be used only for the following purposes:

- (a) Any use permitted in the R-1-a one-family residential district;
- (b) Two-family dwelling;
- (c) Townhouse dwelling, provided that each dwelling shall exhibit the characteristics of a series of single family dwellings which are arranged in an attached side by side fashion, and that such dwelling is designed to protect the

character of one-family residences. To this intent, in addition to those regulations otherwise set forth in this Code, the following requirements shall be observed:

(1) Dispersion of dwellings. Regardless of ownership, no townhouse dwelling shall be constructed within 300 feet of any other townhouse dwelling;

(2) Modulation of roof lines. The roofs or portions thereof of no more than two adjacent dwelling units within a townhouse dwelling shall be located within the same plane, and any variation in height of such roofs or portions thereof shall be a minimum of three feet;

(3) Modulation of exterior walls. The exterior vertical walls of no more than two adjacent dwelling units within a townhouse dwelling shall be located within the same vertical plane, and the variation in setback of such exterior vertical walls shall be a minimum of three feet;

(4) Private open space. A private open space shall be provided at each end of all dwelling units by means of an extension of the vertical party or division walls; these extensions shall be provided by wood, brick or stone fences, evergreen vegetative materials, or the direct extension of the party or division walls; these extensions shall be for a minimum distance of six feet and shall have a minimum height of five feet;

(5) Landscaping. Prior to the occupancy and use of a townhouse dwelling, coniferous trees having a minimum height of five feet at the time of placement and/or deciduous trees having a minimum trunk diameter of two inches at the time of placement shall be provided within all required yard areas, such trees to have a maximum average spacing of 20 feet;

(6) Parking and refuse storage areas. Parking areas shall contain a maximum of four adjacent parking spaces, such parking areas to be separated by landscaped islands which have a minimum width of eight feet being separated from parking areas by a poured concrete curb having a minimum height of six inches, and containing at least two deciduous trees having a minimum trunk diameter of two inches at the time of placement. Trees as specified in Subsection (5) above shall be placed along all sides of parking areas, such trees to have a maximum average spacing of 12 feet. Where parking or refuse storage areas are directly viewable from any exterior lot line at a height of six feet above such lot line, such areas shall be screened by wood, brick or stone fences, or vegetative materials, such fences or vegetative materials to have a minimum height of four feet, and to provide a minimum obstruction by opaque materials of 75 percent when viewed at an angle perpendicular to such fences or vegetative materials;

(7) Dwelling units must front on street. Townhouse dwellings shall be located on lots in such a way that each individual dwelling unit has a minimum of 15 feet of street frontage;

(8) Required drawings. All applications for building permits shall include the following information: a site plan and landscape plan as defined in this Code, such plans to be drawn at a scale of not less than 1/8 inch equals one foot; and, a complete set of four building elevations drawn at a scale of not less than 1/8 inch equals one foot indicating the size and location of all windows and doors. Such drawings shall also contain notations on the type of exterior materials and details of all fences;

(9) Review by the secretary of the city planning commission. Each application for a building permit for a townhouse dwelling located in a two-family residential district shall be forwarded to the secretary of the city planning commission for review and certification that such application is in compliance with the terms of this Section;

(10) Limitations on variances. Notwithstanding the provisions of Section 50-47 of this Code, no variance from the strict application of the requirements established in this Article for townhouse dwellings in R-2 two-family residential districts shall be granted except variation of not more than ten percent of the dimensional requirements established in this Article;

(d) Day care facility serving 13 through 16 persons, provided a special use permit is secured according to the procedures set forth in Article IV;

(e) Group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to more than 14 children;

(f) Bed and breakfast inn;

(g) Bed and breakfast country inn containing no more than 12 habitable units in addition to the owner's dwelling unit, provided a special use permit is secured according to the procedures set forth in Article IV;

(h) Residential rooming house containing 12 or fewer habitable units, provided a special use permit is secured according to the procedures set forth in Article IV.

Section 6. That Section 50-72 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 50-72. Permitted uses.

A building or premises in the R-3 apartment residential district shall be used only for the following purposes:

(a) Any use permitted in the R-2 two-family residential district;

(b) Apartment hotel;

(c) Multiple dwelling;

(d) Row or group dwellings, subject to the requirements of Section 50-38;

(e) Religious, educational, eleemosynary institutions of a philanthropic nature, but not a penal or mental institution;

(f) Nursing, rest or convalescent home;

(g) Private club, fraternity, sorority or lodge, excepting one the chief activity of which is a service customarily carried on as a business;

(h) Accessory building or use customarily incidental to any of the above uses, including a storage garage on a lot occupied by a multiple dwelling, apartment hotel, row or group house, rooming or boardinghouse, provided that any such accessory building shall be erected at the same time or after the construction of the principal building;

(i) Residential care facility;

(j) Day care facility;

(k) Elderly congregate housing facility;

(l) Residential rooming house;

(m) Commercial rooming house, provided a special use permit is secured according to the procedures set forth in Article IV;

(n) Bed and breakfast country inn.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

[Editor's Note: This ordinance was reconsidered and amended on May 28, 2002.]

Passed May 13, 2002

Approved May 13, 2002

GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, May 28, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

The minutes of the city council meetings held on April 22, 2002, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0528-01 College of St. Scholastica submitting petition to vacate 400 foot easement in southeast quarter of the northwest quarter of Section 15, Township 50 North, Range 14 West of the Fourth Principal Meridian. -- Assessor

02-0528-03 Spirit Bay Development Company submitting petition to vacate the utility easement running through Lot 1, Block 4, Spirit Cove Division. -- Assessor

02-0528-02 Wesley Properties, et al. (13 signatures), submitting petition to construct a permanent design alley in 57th Avenue West Alley between 57th Avenue West and Cody Street. -- Assessor

02-0528-04 Minnesota state auditor submitting Duluth airport authority audit report for the years ended December 31, 2001 and 2000. -- Received

02-0528-05 Hovland Spirit Ridge, LLC, by William Burns, attorney, submitting communications regarding: (a) LAWCON; (b) Voluntary extension of the action requirement on work permit requests for the hotel and golf course to August 1, 2002; (c) Project update (02-0343R and 02-0344R). -- Received

02-0528-17 St. Louis County Heritage and Arts Center submitting applications for facilities rental during which alcoholic beverages will be served from: (a) Matthew and Kay Doyle on June 8, 2002; (b) Robin Sintkowski on June 1, 2002; (c) Kristi Winchester on June 15, 2002. -- Received

02-0528-18 The following submitting communications regarding reconsideration and proposed further amendment to the bed and breakfast ordinance (Ord. No. 9533): (a) Ann Lenz; (b) Chuck Mehlberg. -- Received

- - -

REPORTS OF OFFICERS

02-0528-07 Assessor submitting:

(a) Letter of confirmation of the assessment rolls levied to defray the assessable portion of Contract No. 5309, drainage ditch in Kingston Alley from 51st to 52nd Avenues East (assessable amount - \$9,000); and Contract No. 5353, demolition of building at 211 South 16th Avenue East (Endion Block 39, southerly 30 feet of Lots 7 and 8) (assessable amount - \$7,217.75);

(b) Letters of sufficiency of petitions for the following:

(1) Reclassification of all properties presently classified as R-1-C to R-1-A in the plats of Fond du Lac;

(2) Vacation of a utility easement along the west side of the Rearrangement of Aarons Valley, Blocks 1 and 2;

(3) Vacation of the utility easement running through Lot 1, Block 4, Spirit Cove Division. -- Received

02-0528-08 Clerk submitting alcohol, gambling and tobacco commission reports, findings of facts, conclusions, recommendations, fact stipulations and transcripts of February 12, 2002, hearings regarding the matters of the:

(a) Off sale nonintoxicating malt liquor license of D&C Ninth Letourneau Enterprises, d/b/a D&C Ninth Street Spur, 1301 East Ninth Street (02-0341R);

(b) On sale nonintoxicating malt liquor license of Sky Ventures, LLC, d/b/a Pizza Hut, 1918 London Road (02-0342R). -- Received

02-0528-09 Engineering division submitting monthly project status report of May 1, 2002. -- Received

02-0528-10 Police chief submitting communication regarding the alcohol, gambling and tobacco commission recommendation of no penalty for violation of the off sale nonintoxicating malt liquor license of D&C Ninth Letourneau Enterprises, d/b/a D&C Ninth Street Spur, 1301 East Ninth Street (02-0341R). -- Received

02-0528-06 Property manager submitting agreements pursuant to Duluth City Code Section 2-35 as follows:

(a) Lease with Smokin Java Joes, LLC, for operation of the City Hall coffee shop;

(b) Rental to Paul Simone of the residential dwelling unit located within the Irving Community Club. -- Mayor for execution

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-0528-11 Alcohol, gambling and tobacco commission minutes of: (a) April 9; (b) April 12; (c) May 1, 2002, meetings. -- Received

02-0528-12 Duluth housing commission minutes of: (a) March 14; (b) April 11, 2002, meetings. -- Received

02-0528-13 Duluth/North Shore sanitary district board minutes of: (a) April 25, 2002, public hearing; (b) May 7, 2002, meeting. -- Received

02-0528-14 Housing and redevelopment authority of Duluth minutes of March 26, 2002, meeting. -- Received

02-0528-15 Parking commission minutes of April 9, 2002, meeting. -- Received

02-0528-16 Parks and recreation commission minutes of: (a) January 9; (b) February 13; (c) March 13; (d) April 10, 2002, meetings. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

John Gordon commented on his constitutional rights regarding limiting smoking in a private building and why a permit to possess a concealed weapon can be denied.

- - -

Kay Lewis commented on various items including the proposed locations of an old fashion trolley and a new marina in the Bayfront Park.

- - -

ORDINANCE RECONSIDERED

BY COUNCILOR STENBERG

02-006 (9533) - AN ORDINANCE AMENDING SECTIONS 50-1.7, 50-1.8, 50-35, 50-56, 50- 68 AND 50-72 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO BED AND BREAKFAST INNS AND COUNTRY INNS.

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

Councilor Gilbert moved to remove amendment (a) [*replacement*], amending Section 50-35(d)(3)(F) to read as follows:

“(F) Dining areas shall not exceed three seats per habitable unit in bed and breakfast inns. In bed and breakfast country inns, allowed under this Section, dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in bed and breakfast inns, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For profit events on the premises which involve a total number of participants in excess of the approved dining area seating capacity shall be limited to: six days per year and shall be restricted to the period of October 15 through June 15,”

from the table, which motion was seconded and unanimously carried

Councilor Gilbert moved to amend the ordinance with amendment (a), which motion was seconded and discussed.

The rules were suspended upon a unanimous vote to hear from speakers on the ordinance and/or amendment.

Kathy Carlson, Ann Lenz and Chuck Melberg expressed concern over: the lack of general public awareness regarding how the changes in this ordinance will adversely affect all citizens in R-1 zones, as to what businesses are allowed in a residential zone; this new amendment has not had any neighborhood input; the planning commission unanimously opposed all of the amendments; technically, everyday when overnight guests check out at 11:00 a.m., there could be a luncheon served; by approving this, it will be very difficult to stop other types of businesses in R-1 zones; and other heavy tourist cities do not allow bed and breakfasts to operate in this manner.

Councilors Stenberg and Stauber expressed concern that while the planning commission and neighbors were involved in the process up to this point, they did not have any input into the wording of this amendment.

The amendment was carried upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stewart, Stover and President Ness -- 7

Nays: Councilors Stauber and Stenberg -- 2

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stewart, Stover and President Ness -- 7

Nays: Councilors Stauber and Stenberg -- 2

- - -

RESOLUTION TABLED

Councilor Stewart moved to remove Resolution 02-0286(b), confirming appointments to the new human rights commission, from the table, which motion was seconded and unanimously carried.

Councilor Stewart moved to divide the resolution to consider each appointee separately, which motion was seconded and unanimously carried.

Resolution 02-0286(b), appointing Marie Krynicki, was adopted as follows:

BY COUNCILOR STEWART:

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

HUMAN RIGHTS COMMISSION - Maria Krynicki for a term expiring April 20, 2003.
Resolution 02-0286(b) was unanimously adopted.
Approved May 28, 2002
GARY L. DOTY, Mayor

- - -

Resolution 02-0286(c), appointing Teresa Munoz-Sierra, was tabled for an interview upon a unanimous vote.

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

RESOLVED, that the assessment rolls levied to defray the assessable portions of the following:

(a) Demolition of building at 211 South 16th Avenue East (Endion Block 39, southerly 30 feet of Lots 7 and 8) (Contract No. 5353 razing, assessable amount - \$7,217.75);

(b) Drainage ditch in Kingston Alley from 51st Avenue East to 52nd Avenue East (Contract No. 5309, assessable amount - \$9,000)

are hereby confirmed.

Resolution 02-0346 was unanimously adopted.

Approved May 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the proper city officials are hereby authorized to execute and implement a loan guarantee agreement for the specific purpose of, and restricted to, providing a line of credit to assure availability of funds to pay annual bonding obligations with \$175,000 from Tourism Tax Fund No. 0258 and \$75,000 from General Fund 0100, substantially in the form of the agreement filed as Public Document No. 02-0528-19, guaranteeing a \$250,000 loan from U.S. Bank National Association to the Lake Superior Center authority.

Resolution 02-0355 was unanimously adopted.

Approved May 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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 22, 2002, and confined to the fenced in parking lot at night on June 21-23, 2002, 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Resolution 02-0333 was unanimously adopted.
Approved May 28, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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:

Player's Softball Tournament (Early Bird Tournament), Wheeler Field, for June 1 and 2, 2002, with Darrell Eckenberg, manager.

Twin Ports Boxing Club (Horton's Twin Ports Boxing), 332 West Michigan Street, with Chuck Horton, manager.

Resolution 02-0334 was unanimously adopted.
Approved May 28, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following bed and breakfast on sale wine license for the period ending August 31, 2002, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Immigrant House, LLC (Immigrant House B&B Inn and Meeting House), 2104 East Superior Street, with Linda Amelia Paulsen, owner.

Resolution 02-0335 was unanimously adopted.
Approved May 28, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Grandma's, Inc. (Grandma's Saloon & Grill), 522 Lake Avenue South, for June 21-23, 2002, with the serving and dancing ceasing at 12:30 a.m.

Grandma's Angie's, Inc. (Little Angie's), 11 East Buchanan Street, for June 21-23, 2002, with the serving ceasing at 12:30 a.m.

Lemon's Reef, Inc. (Reef Bar), 2002 London Road, for June 22, 2002, with the music and serving ceasing at 11:00 p.m.

Coughlin Tarvas, Inc. (Bedrock Bar), 2023 West Superior Street, with the music and serving ceasing at 11:00 p.m.

Resolution 02-0336 was unanimously adopted.
Approved May 28, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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 licensees, with an application fee of \$400, subject to departmental approvals with any specific restrictions, and further subject to approval of the liquor control commissioner:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Ridgeview Country Club, 700 West Redwing Street, for July 25-28, 2002, with Philip Gaudino, manager.

Resolution 02-0338 was unanimously adopted.
Approved May 28, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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

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

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

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

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

Resolution 02-0339 was unanimously adopted.
Approved May 28, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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

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

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

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

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

Licensee	Gambling Site	Date Application Filed
Duluth Amateur Youth Basketball Association	Sneakers Sports Bar	April 30, 2002

Resolution 02-0340 was unanimously adopted.
Approved May 28, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that GovDocs be and hereby is awarded a contract for furnishing online subscription management and document delivery system for the M.I.S. division in accordance with specifications on its low specification bid of \$23,450, terms net, FOB destination, \$11,130 payable

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

out of Capital Equipment Fund 0250, Dept./Agency 015, Organization NR00, Object E039 and \$12,320 payable out of General Fund 0100, Dept./Agency 015, Organization 1513, Object 5319.

Resolution 02-0366 was unanimously adopted.

Approved May 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement for professional services, substantially in the form of that on file in the office of the city clerk as Public Document No. 02-0528-21, with Duluth 1200 Fund, Inc., relating to application review services for a revolving loan fund at no cost to the city.

Resolution 02-0348 was unanimously adopted.

Approved May 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officers are hereby authorized to enter into an amendment to Lease No. H-05466 with Mn/DOT covering automobile parking for the U.S.P.S. project extending the term for an additional five year period; said lease amendment to be substantially in the form of Public Document No. 02-0528-20 on file in the office of the city clerk; the \$500 per year rental payable thereunder to be paid from DEDA Fund 865-860-8603.

Resolution 02-0363 was unanimously adopted.

Approved May 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Traffic Control Corporation be and hereby is awarded a contract for furnishing and delivering a new traffic signal controller and cabinet at Sixth Avenue West and Superior Street for the engineering division in accordance with specifications on its low specification bid of \$16,897.30, terms net 30, FOB destination, payable out of Self Insurance Liability Fund 0610, Dept./Agency 036, Organization 1651, Object 5842.

Resolution 02-0329 was unanimously adopted.

Approved May 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Midway Contractors, Inc., be and hereby is awarded a contract for construction of sanitary sewer and watermain extension on Rice Lake Road for the engineering division in accordance with specifications on its low specification bid of \$51,474, terms net 30, FOB job site, payable out of Special Assessment Fund 0410, Dept./Agency 038, Organization 5344, Object 5530.

Resolution 02-0349 was unanimously adopted.

Approved May 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

RESOLVED, that Midway Contractors, Inc., be and hereby is awarded a contract for construction year 2002 street improvement of Congdon Park West Lower-II for the engineering division in accordance with specifications on its low specification bid of \$761,900.20, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0202, Object 5530.

Resolution 02-0350 was unanimously adopted.
Approved May 28, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for reconstruction East First Street for the engineering division in accordance with specifications on its low specification bid of \$845,114.77, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2170, Object 5530; to be reimbursed by municipal state aid funds (MSA).

Resolution 02-0351 was unanimously adopted.
Approved May 28, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for construction West First Street for the engineering division in accordance with specifications on its low specification bid of \$620,070.30, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2171, Object 5530; to be reimbursed by municipal state aid turnback funds.

Resolution 02-0352 was unanimously adopted.
Approved May 28, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, by the resolution of intent numbered 02-0251, the council did request the administration to prepare plans and specifications for the construction of a permanent street in Maryland Street from Dodge Avenue to Victoria Street, including permanent residential design street with concrete curb and gutter, bituminous surface and storm sewer, and for sanitary sewer, watermain and gas main to serve Lots 5 through 10, Block 1, and Lots 1 through 11, Block 2, Richards First Addition (City Job No. 0215TR); 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 \$360,000, payable from the Special Assessment Fund 0410, Agency 038, Organization 5354, Object 5530, that \$16,000 be paid by stormwater utility and that \$344,000 of the cost of said

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

improvement be defrayed by special assessment against the land and premises specially benefited; 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 02-0354 was unanimously adopted.

Approved May 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 00-0647 to L.H.B. Engineering and Architects, for a 16 inch gas main from TBS1A to 51st Avenue West and Bristol Street, be amended to increase the amount by \$163,528.46 for a new total of \$565,655.46, payable out of Gas Construction Bond Fund 0521, Dept./Agency 500, Object 5532.

Resolution 02-0357 was unanimously adopted.

Approved May 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Duluth Ready Mix be and hereby is awarded a contract for furnishing and delivering Class 5 gravel, crushed rock and washed sand for the various utility operation and maintenance operation divisions in accordance with specifications on its low specification bid of \$96,300, terms net 30, FOB job sites, payable out of various funds, departments/agencies, organizations and objects.

Resolution 02-0364 was unanimously adopted.

Approved May 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are authorized and directed to execute an agreement, filed as Public Document No. 02-0528-22, leasing to BWI Midwest Operating Corporation a space on the Woodland water tower and within the tower base for installation of communications antennas and equipment for a consideration of \$17,544 per year; said money to be deposited in Water Fund No. 510.

FURTHER RESOLVED, that the proper city officers are authorized to execute documents terminating Lease No. 18327 with Wireless North, LLC, for antenna space on the Woodland water tower.

Resolution 02-0365 was unanimously adopted.

Approved May 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, the proper city officers are hereby authorized to accept a grant in the amount of \$26,320 from the Lincoln Park Youth Collaborative for youth recreational activities set forth in the communications on Exhibit A and filed as Public Document No. 02-0528-23. These monies shall be expended as provided in Exhibit A during the period of January 1, 2002, through Decem-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

ber 31, 2002. Such funds shall be deposited into Parks and Recreation Account No. 0100-400-1812-4259.

Resolution 02-0330 was unanimously adopted.
Approved May 28, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, the proper city officers are hereby authorized and directed to execute an agreement (Public Document No. 02-0528-24) between the city of Duluth and the Duluth Area Family Services Collaborative to receive a time study grant in the amount of \$7,666.80. The grant shall be used to pay for part time recreation staff and supplies in West Duluth neighborhoods for the period of January 1, 2002, through December 31, 2002. Such funds shall be deposited into Parks and Recreation Account No. 0100-400-1812-4259.

Resolution 02-0331 was unanimously adopted.
Approved May 28, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, the proper city officers are hereby authorized and directed to execute an agreement (Public Document No. 02-0528-25) between the city of Duluth and the Duluth Area Family Services Collaborative to receive a time study funding grant in the amount of \$21,600. The grant shall be used to pay for a part time recreation staff and supplies at Lower Chester/Endion recreation community centers for the period of January 1, 2002, through December 31, 2002. Such funds shall be deposited into Parks and Recreation Account No. 0100-400-1812-4259.

Resolution 02-0332 was unanimously adopted.
Approved May 28, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Inspec, Inc., for the sum of not to exceed \$6,400, from Capital Fund 0450, Ag. 015, Org. 2002, Obj. C204, for providing certain investigative services to the city of Duluth in connection with city building roof replacements, 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. 02-0528-26.

Resolution 02-0345 was unanimously adopted.
Approved May 28, 2002
GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 02-0341, by Councilor Atkins, in the matter of the on sale nonintoxicating malt liquor license of D&C Letourneau Enterprises (D&C Ninth Street Spur), 1301 East Ninth Street, was introduced for discussion.

Councilor Gilbert moved to amend the resolution as follows:

(a) In the first paragraph, delete the phrase "and adopts the recommendations" and insert "as amended herein";

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

(b) In the second paragraph, delete the phrase "not impose any penalty" and insert "imposes the presumptive first offense penalty of a \$500 civil penalty," which motion was seconded and discussed at length.

Councilors Atkins, Stauber, Stenberg and Stewart had concerns that: the licensee gives a very thorough training program and employees have to sign a statement that they have received this training; the 28 year old employee should be the only one held accountable, given the training that was received and acknowledged; the alcohol, gambling and tobacco commission held a full hearing and has made the recommendation that, given the specific circumstances here, the city council not impose any penalty and that just because this licensee is following the process and the administration is appealing the recommendation, the outcome does not have to be different than what was recommended.

The amendment was carried upon the following vote:

Yeas: Councilors Bergson, Gilbert, Hogg, Stover and President Ness -- 5

Nays: Councilors Atkins, Stauber, Stenberg and Stewart -- 4

Resolution 02-0341, as amended, was adopted as follows:

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby makes the finding of facts and conclusions as amended herein set forth in Public Document No. 02-0528-08(a) regarding any suspension, revocation and/or civil penalty relating to the off sale nonintoxicating malt liquor license of D&C Letourneau Enterprises (D&C Ninth Street Spur), 1301 East Ninth Street.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the city council imposes the presumptive first offense penalty of a \$500 civil penalty on D&C Letourneau Enterprises (D&C Ninth Street Spur), 1301 East Ninth Street.

Resolution 02-0341, as amended, was adopted upon the following vote:

Yeas: Councilors Bergson, Gilbert, Hogg, Stewart, Stover and President Ness -- 6

Nays: Councilors Atkins, Stauber and Stenberg -- 3

Approved May 28, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0342, by Councilor Atkins, in the matter of the on sale nonintoxicating malt liquor license of Sky Ventures LLC (Pizza Hut), 1918 London Road, was introduced for discussion.

Councilor Gilbert moved to amend the resolution as follows:

(a) In the first paragraph, delete the phrase "and adopts the recommendations" and insert "as amended herein";

(b) In the second paragraph, after the phrase "civil penalty is as follows:" insert "that the council imposes the presumptive second offense penalty of a \$750 civil penalty and a one day license suspension on";

(c) At the end of the second paragraph, delete the phrase "pay a civil penalty of \$750," which motion was seconded and carried as follows:

Yeas: Councilors Bergson, Gilbert, Hogg, Stover and President Ness -- 5

Nays: Councilors Atkins, Stauber, Stenberg and Stewart -- 4

Resolution 02-0342, as amended, was adopted as follows:

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby makes the finding of facts and conclusions as amended herein set forth in Public Document No. 02-0528-08(b)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

regarding any suspension, revocation and/or civil penalty relating to the on sale nonintoxicating malt liquor license of Sky Ventures, LLC (Pizza Hut), 1918 London Road.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation, and/or civil penalty is as follows: that the city council imposes the presumptive second offense penalty of a \$750 civil penalty and a one day license suspension on Sky Ventures, LLC (Pizza Hut), 1918 London Road.

Resolution 02-0342, as amended, was adopted upon the following vote:

Yeas: Councilors Bergson, Gilbert, Hogg, Stewart, Stover and President Ness -- 6

Nays: Councilors Atkins, Stauber and Stenberg -- 3

Approved May 28, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0343, by Councilor Stewart, denying work permit application of Spirit Ridge, LLC, related to Spirit Ridge Project, was introduced for discussion.

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

- - -

Resolution 02-0353, by Councilor Gilbert, approving the 2002 revised program guidelines for the city's neighborhood matching grants fund program, which motion was seconded and unanimously carried.

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

- - -

Resolution 02-0344, by Councilor Stenberg, accepting donation of property for Spirit Mountain and granting a work permit to Spirit Ridge, LLC, for construction of a lodge and an 18 hole golf course at Spirit Mountain, was introduced for discussion.

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

Kay Lewis stated that the land at Spirit Mountain should not be used for a golf course.

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

- - -

Resolution 02-0370, reversing, and Resolution 02-0371, affirming, respectively, the decision of the board of zoning appeals to deny a request to construct two dwellings on property reducing the required minimum frontage from 50 feet to 37 feet, five inches, and to reduce the minimum side yard setback from seven feet to four feet, ten inches, and the aggregate side yard setback from 15 feet to 11 feet, ten inches, on property located at 16 East Fifth Street and 20 East Fifth Street (Northern Community Land Trust), by Councilor Stenberg, were introduced for discussion.

Resolution 02-0370 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, Northern Communities Land Trust, by Jeff Corey, executive director, has appealed the board of zoning appeals denial of a variance request to reduce the minimum frontage requirement from 50 feet to 37 feet five inches and to reduce the minimum side yard setback from seven feet to four feet ten inches and the aggregate side yard setback from 15 feet to 11 feet ten inches for the construction of two dwellings on property located at 16 East Fifth Street and 20 East Fifth Street; and

WHEREAS, the property is located within an R-3 apartment residential zoning district; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

WHEREAS, Section 50-20.2 requires a minimum lot frontage of 50 feet and a minimum side yard setback of seven feet with an aggregate side yard of 15 feet in an R-3 zoning district; and

WHEREAS, the board of zoning appeals denied the variance requests because it found that no hardship to the property existed which constituted special circumstances or conditions applying to the building or land in question which was peculiar to such property and did not apply generally to other land or buildings in the vicinity, and because it was not necessary for the preservation and enjoyment of a substantial property right and not merely a convenience of the applicant; and

WHEREAS, the granting of this variance was not justified under the existing verbiage of the zoning code; and

WHEREAS, pursuant to Section 50-47 of the Duluth City Code, 1959, as amended, in order to grant this appeal and issue the requested variance, the city council would be required to find that by reason of exceptional narrowness, shallowness or shape of the property, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the property, the strict application of the terms of Chapter 50 would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property and that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the zoning code; in addition the council must find that special circumstances or conditions applying to the building or land in question which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity, that the granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant, and that authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

NOW, THEREFORE, BE IT RESOLVED, that the city council finds that, by reason of (condition of land), strict application of the zoning code to this property would result in (practical difficulty or undue hardship) to the owner, that relief therefrom may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the zoning code, that special circumstances or conditions applying to the building or land in question which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity and _____ that granting of the application is necessary for the preservation and enjoyment of a substantial property right, the right of _____ and not merely to serve as a convenience to the applicant and that authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

FURTHER RESOLVED, that the board of zoning appeals' decision of April 23, 2002, is hereby reversed by the city council and the appeal is granted.

Resolution 02-0370 was unanimously adopted.

Approved May 28, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0371 failed upon a unanimous vote (Public Document No. 02-0528-27).

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR STENBERG

02-014 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO CARLA BLUMBERG FOR A FIXED AWNING TO PROJECT INTO AND OVER THE RIGHT-OF-WAY OF EAST EIGHTH STREET AND 19TH AVENUE EAST LOCATED ADJACENT TO 1902 EAST EIGHTH STREET.

- - -

BY PRESIDENT NESS

02-016 - AN ORDINANCE AUTHORIZING THE DULUTH CITY COUNCIL TO PROVIDE FOR ADDITIONAL REGULAR VISITOR'S PERMITS IN RESIDENT PERMIT PARKING ZONES; AMENDING SECTION 33-126 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR STOVER

02-013 (9534) - AN ORDINANCE CONVEYING A HIGHWAY EASEMENT IN CERTAIN PROPERTY NEAR McCUEN STREET TO THE STATE OF MINNESOTA FOR A CONSIDERATION OF \$17,620.

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

- - -

The meeting was adjourned at 8:30 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9533

BY COUNCILOR STENBERG:

AN ORDINANCE AMENDING SECTIONS 50-1.7, 50-1.8, 50-35, 50-56, 50- 68 AND 50-72 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO BED AND BREAKFAST INNS AND COUNTRY INNS.

The city of Duluth does ordain:

Section 1. That Section 50-1.7 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 50-1.7. Bed and breakfast inn.

An owner occupied building designed as a single family dwelling providing lodging accommodations by prior arrangements, for compensation. The primary residence in the building or a separate, lawfully existing building located on the same site must be occupied by the building owner on a permanent basis. It may or may not include serving of meals to guests.

Section 2. That Section 50-1.8 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 50-1.8. Bed and breakfast country inn.

A building designed as a single family dwelling containing habitable units providing no more than 12 guestrooms of lodging accommodations by prior arrangements, for compensation. It may or may not include serving of meals to

guests and the general public.

Section 3. That Section 50-35 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 50-35. Enumerated.

The following are the special uses for which the city council may issue a special permit, as provided in Section 50-32:

(a) Airport, landing field or landing strip for all forms of aircraft, auto race track and drag strip;

(b) Amusement park, but not within 300 feet of any R district;

(c) Beauty salon in an R district, subject to the following restrictions and conditions:

(1) Such use shall be incidental and subordinate to the principal residential use conducted within a dwelling and not in an accessory building;

(2) At least 120 square feet but not more than 1/4 of the floor area of one story of the building shall be devoted solely to such use and to no other use;

(3) Only one person shall work in the beauty salon and such person shall reside on the premises;

(4) There shall be no separate entrance to the beauty salon from the front of the building, and the applicant shall provide evidence of inspection and compliance with all applicable fire and building codes;

(5) No signs or displays advertising the salon shall be permitted on the premises;

(6) At least two off street parking spaces shall be available on the premises for use by patrons of the salon, such parking space requirement to be in addition to the parking space requirements otherwise applicable to the premises;

(7) Applicant shall, prior to issuance of a special use permit pursuant to this Section, provide proof that applicant has all required licenses for operation of a beauty salon;

(8) Notice and publication as required by Section 50-32.2 of this Code shall, in the case of permits under this paragraph, include mailed notice to all property owners and occupants of property within 200 feet of the building;

(9) No permit shall be granted pursuant to this paragraph if a beauty salon already exists within 1,000 feet of the premises;

(d) The city council recognizes that bed and breakfasts are an asset to the community and help the preservation of historic homes and neighborhoods and help the economy of the region as small businesses. Bed and breakfast inns and country inns; in districts where they are permitted as special uses and only as provided herein;

(1) This special use permit shall be granted only to those properties, which meet or exceed the criteria outlined herein. A bed and breakfast inn must be a residential building that has no greater impact on the uses of the public areas or infrastructure or natural resources of the neighborhood than, or be apparent to an observer to be other than, the existing property used as a fully occupied private home with house guests. The principal building must appear outwardly to be a single family dwelling, giving no appearance of a business use other than allowed signs.

No permit shall be considered or issued for a bed and breakfast facility located closer than 450 feet to an existing bed and breakfast facility. This limitation may be waived by the city council for properties which are locally designated heritage preservation landmarks;

(2) An application for this special use permit shall include the following:

- (A) A site plan as defined in Section 50-1.60;
- (B) A landscape plan as defined in Section 50-1.40;
- (C) A set of detailed floor plans indicating the traditional uses of all rooms and the intended uses in the bed and breakfast operation;
- (D) Sign drawings showing location, dimensions and detail;
- (E) For a waiver of the 450 foot separation, a copy of the resolution designating the properties as a heritage preservation landmark;

(3) Bed and breakfast inns and country inns may be granted special use permits subject to the following standards and conditions:

(A) The property must be comprised of a minimum of 0.6 acre;

(B) The main residential building must contain a minimum of 1,500 square feet of area on the first floor;

(C) For an inn, the proprietor shall be the owner and occupant of the property;

(D) Off street parking for the uses of the property shall be provided on site as required in Section 50-26. Scattered off site parking shall not be allowed;

(E) All parking areas shall be hard-surfaced and visually screened by vegetation and/or fencing (consistent with the architecture of the structure) as required by the city in order to maintain the apparent single family use of the property;

(F) Dining areas shall not exceed three seats per habitable unit in bed and breakfast inns. In bed and breakfast country inns, allowed under this Section, dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in bed and breakfast inns, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For profit events on the premises which involve a total number of participants in excess of the approved dining area seating capacity shall be limited to: six days per year and shall be restricted to the period of October 15 through June 15;

(G) Any construction to restore buildings to historic condition, any construction of new buildings and any exterior alterations to the building must be authorized by the city council through this special use permit process;

(H) There shall be a limitation on the number of guest rooms permitted based on the size of the building, building code or fire code;

(I) Total signage on the property shall not exceed 12 square feet in size. Such signage shall complement the architecture of the structure;

(J) Guests' stays shall be limited to 21 consecutive days;

(K) A bed and breakfast establishment must comply with all building and fire code requirements. Inspections shall be conducted before special use permits or licenses are issued;

(L) The owner/operator shall present inspection reports from the city fire marshal and St. Louis County health department to the city clerk prior to the issuance of any licenses;

(M) Such other conditions deemed necessary by the planning commission and/or city council to ensure the use complies with the purpose of this Subsection;

(e) Cemetery, crematorium or mausoleum;

(f) Child care facility. A state licensed residential facility for care and treatment of children located within 100 feet of an existing state licensed residential program that has an administrative organization and structure approved under state law for providing shelter, food, training, treatment and other aspects of care of not more than six children, and is an extension of an existing facility licensed under state law.

Any such facility shall meet all other state licensing requirements for such facilities, be contiguous to or located not more than 100 feet from the existing licensed facility charged with operation of the facility, and must not present any external image other than that of a single family residence;

(g) Circus or carnival grounds, but not within 300 feet of any R district;

(h) Clinic of less than 10,000 square feet in floor area or institutions;

(i) Commercial, recreational or amusement development for temporary or seasonal periods;

(j) Commercial rooming house, but only in those districts where permitted as special use;

(k) Commercial services and recreational uses in the IP industrial park district, as further defined in Section 50-123 of this Chapter;

(l) Day care facility, but only in those districts where permitted as a special use;

(m) Elderly congregate housing facility, but only in those districts where permitted as a special use;

(n) Marina;

(o) Mini storage facilities; subject to compliance with the following criteria:

(1) Located in a S zone;

(2) On a parcel not less than 7-1/2 acres in size with no less than 500 feet of frontage on a publicly maintained right-of-way;

(3) Development shall not increase the peak stormwater runoff from the site from its existing condition based upon a storm of 100 year frequency and 24 hour duration (5.25 inches of rainfall);

(4) Signage shall be limited to one 40 square foot illuminated pole and 20 square feet of non-illuminated wall signage. Signs shall not be located closer than ten feet to the front property line and no closer than 50 feet to any side property line;

(5) There shall be maintained a minimum of 50 feet of landscaped or naturally vegetated buffer from all property lines;

(6) There shall be a minimum structure setback of 100 feet from

any property line;

(7) Storage area unit shall not exceed a 12 foot wall height and a floor area of 300 square feet;

(8) Lighting shall be limited so as not to illuminate beyond property lines;

(p) Office building of a civic, religious or charitable organization, conducting activities primarily by mail and not handling merchandise or rendering services on the premises, but only within the R-4 district;

(q) Petroleum soil treatment;

(1) Petroleum soil treatment in the form of land treatment (soil farming) shall be located in S-suburban zones and shall comply with the following criteria:

(A) That the pollution control agency (PCA) shall have reported to the planning department regarding the individual site and the possibility of any problems relative to issuance of PCA authorization for use of the site;

(B) The natural topography, drainage character, vegetation and use of the site shall not be altered beyond site preparation required for any listed permitted land use within the S-suburban zone. Specifically:

1. No vegetation shall be cut or removed from within state required setbacks except as required for installation of temporary roads;

2. Vegetation removal shall be minimal. Vegetation greater than six inches caliper shall not be removed except as determined necessary to accommodate minimal equipment clearances, and there shall be minimal preparation of the soil on the treatment area. Such preparation shall minimize disturbance of the topsoil and does not preclude the return of the site to listed permitted S-suburban zone land uses;

(C) All treatment areas must be planted to pasture grasses during treatment and replanted to the original vegetation after the treatment process has been completed;

(D) No sites shall be located within wetland, shore land or flood zones as defined by Chapter 51 of the Code;

(E) That the applicant shall maintain the treatment site in strict compliance with all conditions of this permit and associated state or federal permits;

(2) Petroleum soil treatments using biodegradation such as composting or aerobic treatment cells or other technologies as may be developed and approved by the PCA from time to time, shall be only permitted in M-1 and M-2 zones, and shall be subject to the standards (A), (B), (D) and (E) cited above;

(r) Power transmission line, review and approval to be provided for separately in each of two steps:

(1) A general corridor special use permit;

(2) A final design special use permit, under the following conditions and procedures:

(A) Submittal information for general corridor special use permits. In addition to other information required by the special use permit process, the applicant shall provide the following information with applications for general corridors:

1. A statement demonstrating the need for the proposed line;

2. Drawings showing the approximate location of a preferred route (having a width of less than 1,000 feet) and at least one alternative route. Included within each route shall be an intended center line and subject site and adjacent area information, the form of which shall be determined by the planning commission on existing topography, land uses, soils, vegetation, water courses, wetlands, major drainage ways, flood plains, rock outcroppings and scenic views. Drawings shall also indicate proposed general types, heights and ranges of spacing of supporting structures and related equipment such as pumping stations, although the specific type of line shall not be approved until the final design review;

3. A statement identifying potential locations of conflict such as adjacent scenic and residential areas and describing general proposed methods of dealing with such conflicts;

4. A statement addressing each applicable standard of Section 50-35(r)(4) below in regard to the preferred route and alternative routes;

(3) Submittal information for final design special use permits. In addition to information otherwise required by the special use permit process, the applicant shall provide the following for final design special use permits:

(A) Plans and profiles, the form of which shall be determined by the planning commission, showing the exact location of the center line and the exact location and design of supporting structures and related equipment as proposed by the applicant. Alternative potential designs of supporting structures shall also be presented;

(B) A landscaping plan and subject site and adjacent area information on existing topography, land uses, soils, vegetation, water courses, wetlands, major drainage ways, flood plains, rock outcroppings and scenic views in a form which shall be determined by the city planning commission;

(C) A statement addressing each applicable standard of Section 50-35(r)(4) below;

(4) Standards for approval. No special use permit shall be granted unless the following standards and conditions are met in addition to normal requirements of the special use permit process:

(A) For general corridor special use permits:

1. The public need for the route and facility as specifically proposed shall be demonstrated;

2. Where possible, lines shall avoid existing and potential urban density residential neighborhoods;

3. The applicant shall provide an evaluation of the future needs for additional transmission lines in the same general area as the proposed route and the advisability of utilizing structures capable of expansion of transmission capacity through multiple circuiting or design modification;

(B) For final design special use permits:

1. Where it is determined that a proposal would unduly harm adjacent property or property values, it shall be determined that no other feasible alternative to the proposal exists. Such consideration of alternatives shall include the underground placement of the line. Any consideration of feasibility

of such underground lines shall include economic, technological or land characteristic factors. Economic considerations alone shall not render underground placement not feasible;

2. All structures shall be located and designed in such a way that they are compatible with surrounding land uses, scenic views and existing transmission structures with regard to height, scale, material, color and design;

3. Lines shall meet or exceed the National Electric Safety Code;

4. Electro-magnetic noise and interference with radio and television reception, as well as audible hum outside the line right-of-way, shall be minimized;

5. The cleared portion of the right-of-way shall be kept to a minimum and where vegetation will be removed, new vegetation consisting of native grasses, shrubs and low growing trees shall be planted and maintained. Vegetative screening shall be utilized to the maximum extent consistent with safety requirements;

(C) For both general corridor and final design special use permits. The following standards shall apply in addition to those required above under general corridor and final design special use permits:

1. When routing transmission lines, the following shall be avoided unless no reasonable alternative exists: slopes of 20 percent grade or greater; intrusions into scenic areas such as streams, open water, valleys, overviews, ridge crests and high points; wetlands; forests, by running along the fringe rather than through the forests, and by utilizing open areas in order to minimize cutting, although leaving a strip at the outside for screening purposes; soils susceptible to erosion which would create sedimentation and pollution problems; areas of unstable soils which would be subject to extensive slippages; areas with high water tables, especially if construction requires excavation; open space recreation areas, including parks, golf courses, etc.; long views of lines parallel to highways and trails; airports; and parkways;

2. Routes shall utilize or parallel existing railroads and highway rights-of-way if possible. If such highway rights-of-way are developed the line and structures shall be sufficiently set back and screened in order to minimize view of the line and structures from the highway;

(5) Alteration of final design special use permit. Once the final design special use permit is issued, the applicant may change the height and location of structures for engineering purposes provided no structure height is increased or decreased by more than 20 percent of its approved height or moved more than 25 feet from its approved location. Should it be necessary to alter the height or location more than the amounts set forth herein, applicant must obtain the approval of the city planning commission after the commission has conducted its normal public hearing and notice procedures. The decision of the planning commission on any alterations shall be final unless appealed to the city council within ten days;

(s) Privately operated community building or recreation field;

(t) Any public or government owned or leased building not permitted in a particular district; provided that such permit shall run for a full period of the lease and that both lease and permit shall run for not less than ten years from date of permit;

(u) Radio or television broadcasting tower or station;

(v) Residential care facility, only in those districts where permitted as a special use;

(w) Residential rooming house, only in those districts where permitted as a special use;

(x) Riding stable;

(y) Solid waste disposal facility;

(1) Special use permits for solid waste disposal facilities and yard waste compost facilities shall be granted only under certain circumstances and under certain conditions;

(2) An application for this special use permit shall include the following:

(A) A complete legal description of the property and the specific site within the property description;

(B) A site plan as defined in Section 50-1.64;

(C) A landscape plan as defined in Section 50-1.65.7;

(D) A detailed plan schedule for excavation, grading, dumping, filling, covering, landscaping and closure of the facility;

(E) Engineering certification, signed by the project engineer, which must certify (with any exceptions listed) that the design for construction is in accordance with standards as set out in these regulations and state statutes and rules relating to the specific type of requested facility;

(F) Signage plans showing location, dimensions and detail;

(G) Drainage plan that provides for diversion of surface water around and away from the disposal area and does not increase the rate of runoff, from the predevelopment condition, from the site onto adjoining properties;

(H) Ground water monitoring plan as and if required by state statutes or rules;

(I) A detailed dust control plan for the facility and for roadways in and leading to and from the facility;

(3) Standards and conditions. Solid waste disposal facilities and yard waste composting facilities may be granted special use permits in S, M-1 and M-2 zones subject to the following:

(A) Setbacks, in M-2 zones, all aspects of the solid waste disposal operation shall be setback from all property lines a minimum of 150 feet. In S and M-1 zones the setback shall be 300 feet from all properties zoned other than M-2. Such setbacks shall be bermed and/or landscaped so as to be visually screened from adjacent properties and roadways. Natural vegetation shall be retained in such setbacks where practical. All aspects of yard waste composting facilities shall be set back 100 feet from all property lines;

(B) Licensing for all solid waste disposal operations and facilities as well as yard waste composting facilities shall comply with all state and

Western Lake Superior Sanitary District requirements in accordance with Minnesota Statutes and agency rules;

(C) Solid waste disposal facilities for industrial waste shall only be allowed in M-2 zones. Such facilities shall be approved in the special use permit only for specified types of industrial waste;

(D) Solid waste disposal facilities for construction debris shall only be allowed in M-2 zones;

(E) Facilities for composting of yard waste shall not accept materials other than yard waste;

(F) No solid waste disposal facilities, except composting facilities, shall be permitted in a designated shoreland or flood plain zone nor in an identified wetland as these are defined in Chapter 51 of this Code;

(G) All filled areas shall be covered and vegetated in accordance with an approved schedule for filling, covering and vegetating. Further, there shall be an approved plan as part of the special use permit for the vegetation and dust control of stockpiled cover material;

(H) There shall be no burning of materials;

(I) Facility locations shall have direct access to an arterial street and shall not access through a neighborhood. Increased traffic generated by the facility shall not have an adverse effect on the neighborhood. All roads leading to and from and within facilities located in S and M-1 zones shall be constructed with an approved, as part of the special use permit, dust free material;

(J) All vehicles transporting materials to or from the facility shall be covered;

(K) For sites in S and M-1 zones, there shall be no dumping or operations outside of buildings, nor delivery or removal of materials to or from the site occurring between the hours of 10:00 p.m. and 7:00 a.m.;

(L) Except for yard waste composting facilities there shall be no processing (separating or sorting) of materials outside of covered structures;

(M) Noise emanating from a building in which dumping, separating or other processing of material is performed shall not exceed 55db at any property line which abuts property zoned other than M-2;

(N) In S and M-1 zones there shall be no exterior lighting permitted except to provide security for buildings and parking areas. Where such lighting is permitted it shall be directed so no light source is visible from any property line;

(O) Compliance funding: in the absence of other compliance funding required by state permitting agencies, there shall be a bond, letter of credit or other security (including an account to accept deposits of tipping fees) acceptable to the city, prior to the issuance of a permit to ensure compliance with the terms of the permit and to ensure proper closure of the facility. Such bond, letter of credit or other surety shall provide for the amount of the closure costs estimated and certified by the project engineer for each phase of operation and final closure;

(z) Strobe lights, as defined in Section 10-36 of this Code, may be used on radio and television broadcasting towers exceeding 400 feet in height located in that area of the city commonly known as the tower farm within Section 28, Township 50, Range 14, subject to the following restrictions and conditions:

(1) Strobe lights may be used only when the north sky illumination on a vertical surface at the base of the tower is greater than five footcandles. Red obstruction lights must be used at all other times;

(2) Strobe installations shall be shielded so as not to be visible from ground elevation for a radius of two miles from the antenna base;

(3) Strobe installations will be allowed only on towers which are required by federal aviation administration regulations to be painted orange and white;

(aa) Drive-in theater in the S suburban district;

(bb) Tourist or trailer camp; provided, that such tourist or trailer camp shall comply with the applicable provisions of this Code and the laws of the state;

(cc) Essential municipal or public utility use, facility or building, other than a business office or production facility; provided that such use, facility or building shall be located in a S district only if its specific function requires that it be so located in order to serve the immediate neighborhood, as opposed to serving a major portion of the community. Provided, that a substation which serves more than the immediate neighborhood may be granted a special use permit in S districts if such substation is located in such a manner that it is visually screened from adjacent properties and is located on a site of at least five acres;

(dd) Veterinarian or animal hospital; provided, that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, which are ordinarily permitted in the house and kept for company or pleasure) and that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a sound-proof building with adequate ventilation;

(ee) Wind energy conversion systems. WECS shall be permitted, provided that the existing or future uses permitted within adjacent properties are not adversely affected by: noise, radio or television signal interference, or safety conditions. Further provided, that such WECS be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower and in no case shall tower height exceed 200 feet. Further provided, that satisfactory visual screen buffers be provided at the edges of the property in order to mitigate aesthetic impacts upon the neighborhood.

Section 4. That Section 50-56 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 50-56. Permitted uses.

A building or premises in the R-1-a one-family residential district shall be used only for the following purposes:

(a) One-family dwelling;

(b) Two-family dwelling, provided that such dwelling is designed to protect and reflect the character of one-family residences. To this intent, in addition to those regulations otherwise set forth in this Code, the following requirements shall be observed:

(1) Single front entrance. Access to the second dwelling unit shall be either through a common hallway within one front entrance, or by means of a separate entrance at the side or rear of the building;

(2) Exterior stairways. No exterior stairways with a total vertical rise greater than five feet shall be permitted;

(3) Third floor exits. Any dwelling unit or portion thereof which is located on the third floor shall have two separate means of exit;

(4) Roomers. Any two-family dwelling located in a one-family residential district shall be for the exclusive occupancy by two families and no roomers shall be permitted;

(5) Roof character. Except for buildings in existence on May 11, 1980, and buildings constructed after May 11, 1980, which have been put to a lawful use other than a two-family dwelling for a minimum of five years, roofs shall have a minimum slope of 2-1/2 feet vertical rise to 12 feet of run;

(6) Minimum dwelling size. No two-family dwelling within a structure erected after May 11, 1980, shall contain a total of less than 1,800 square feet of floor area other than garages or utility rooms or basement or attic space not used for living quarters;

(7) Dispersion of dwellings. No two-family dwelling shall be constructed and no single family dwelling shall be converted to a two-family dwelling within a distance of 300 feet from any other two-family dwelling or multiple family dwelling located within the same block; provided, that no more than one two-family dwelling or multiple family dwelling shall be permitted within a block containing an area of 120,000 square feet or less;

(8) Required drawings. In addition to required plot plans, applications for building permits shall be accompanied by a complete set of four building elevations drawn at a scale of not less than 1/8 inch equals one foot, such elevations to indicate the size and location of all windows and doors, and the type of exterior materials;

(9) Limitations on variances. Notwithstanding its power to grant variances as set forth in Section 50-47 of this Code, the board of zoning appeals shall not grant any variance from the requirements for the allowance of two-family dwellings in a one-family residential district; provided that such board may grant a variance reducing by not more than ten percent the minimum dimensional requirements for allowance of a two-family dwelling in a one-family residential district if the findings required by Section 50-47(b) of this Code are made by such board;

(c) Agricultural uses primarily for home consumption, such as domestic gardening, berry or bush crops, tree crops, flower gardening, nurseries, orchards, aviaries and apiaries, including a greenhouse, but not including a salesroom or roadside stand;

(d) Publicly owned or operated forest reserve, park, playground or community building, museum, library or art gallery; provided, that any such building shall be located not less than 25 feet from any side lot line;

(e) Church or other place of worship or Sunday school; provided, that any such building shall be located not less than 25 feet from any side lot line;

(f) Public school, elementary and high, university, college, parochial school or private school having a curriculum similar to that ordinarily given in public schools; provided, that any such building shall be located not less than 40 feet from any side or rear lot line; and provided further, that there shall be no rooms regularly used for housing or sleeping purposes, except staff quarters when located on the premises for the school;

- (g) Golf club grounds with an area of not less than 30 acres. A miniature course or practice driving tee operated for commercial purposes is not permitted;
- (h) Home occupation;
- (i) Subject to the provisions of Section 50-24, accessory building or use, including a private garage customarily incident to the above uses, but not involving the conduct of a business; provided, that any such accessory building shall be erected at the same time or after the construction of the principal building;
- (j) Residential boat dockage under the following conditions:
 - (1) General provisions:
 - (A) Dockage of boats owned and primarily used by a resident of the property in question is a permitted accessory use to the primary residential use and shall not be limited in number;
 - (B) The rental or use of boat dockage spaces on property on which there is a residential structure by owner of boats not residing on the property in question is a permitted accessory use to the primary residential use, but only if such rental or use is limited to two boats, for every residence having frontage on an improved street;
 - (C) The boat dockage use of a property that is not residentially developed is permitted as a principal use provided that:
 - 1. The use is limited to one boat for each lot or group of contiguous lots in the same ownership; and
 - 2. The boat is owned and primarily used by the owner of the property;
 - (2) Off street parking. For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other off street parking spaces required by other legal uses of the property, such spaces to be constructed in accordance with Article III (off street parking and loading requirements) of this Code [Chapter];
 - (3) Proof of adherence to Code. At the request of the city building inspector or zoning inspector, the owner of property shall promptly provide boat registration or other documentary evidence to prove adherence to this Code;
 - (4) Commercial use prohibitions. No buildings other than residential or residential accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays, and other commercial uses shall be permitted;
- (k) One wind energy conversion system shall be permitted as an accessory use, provided that the tower shall be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower, but in no case shall tower height exceed 130 feet;
 - (l) Residential care facility serving six or fewer persons;
 - (m) Day care facility serving 12 or fewer persons and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to serve 14 or fewer children;
 - (n) Residential care facility serving seven or more persons, provided a special use permit is secured according to the procedures set forth in Article IV;

(o) Elderly congregate housing facility containing 12 or fewer habitable units, provided a special use permit is secured according to the procedures set forth in Article IV;

(p) Bed and breakfast inn, provided a special use permit is secured according to the procedures set forth in Article IV.

Section 5. That Section 50-68 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 50-68. Permitted uses.

A building or premises in the R-2 two-family residential district shall be used only for the following purposes:

(a) Any use permitted in the R-1-a one-family residential district;

(b) Two-family dwelling;

(c) Townhouse dwelling, provided that each dwelling shall exhibit the characteristics of a series of single family dwellings which are arranged in an attached side by side fashion, and that such dwelling is designed to protect the character of one-family residences. To this intent, in addition to those regulations otherwise set forth in this Code, the following requirements shall be observed:

(1) Dispersion of dwellings. Regardless of ownership, no townhouse dwelling shall be constructed within 300 feet of any other townhouse dwelling;

(2) Modulation of roof lines. The roofs or portions thereof of no more than two adjacent dwelling units within a townhouse dwelling shall be located within the same plane, and any variation in height of such roofs or portions thereof shall be a minimum of three feet;

(3) Modulation of exterior walls. The exterior vertical walls of no more than two adjacent dwelling units within a townhouse dwelling shall be located within the same vertical plane, and the variation in setback of such exterior vertical walls shall be a minimum of three feet;

(4) Private open space. A private open space shall be provided at each end of all dwelling units by means of an extension of the vertical party or division walls; these extensions shall be provided by wood, brick or stone fences, evergreen vegetative materials, or the direct extension of the party or division walls; these extensions shall be for a minimum distance of six feet and shall have a minimum height of five feet;

(5) Landscaping. Prior to the occupancy and use of a townhouse dwelling, coniferous trees having a minimum height of five feet at the time of placement and/or deciduous trees having a minimum trunk diameter of two inches at the time of placement shall be provided within all required yard areas, such trees to have a maximum average spacing of 20 feet;

(6) Parking and refuse storage areas. Parking areas shall contain a maximum of four adjacent parking spaces, such parking areas to be separated by landscaped islands which have a minimum width of eight feet being separated from parking areas by a poured concrete curb having a minimum height of six inches, and containing at least two deciduous trees having a minimum trunk diameter of two inches at the time of placement. Trees as specified in Subsection (5) above shall be placed along all sides of parking areas, such trees to have a maximum average spacing of 12 feet. Where parking or refuse storage areas are directly viewable from any exterior lot line at a height of six feet above such lot line, such areas shall

be screened by wood, brick or stone fences, or vegetative materials, such fences or vegetative materials to have a minimum height of four feet, and to provide a minimum obstruction by opaque materials of 75 percent when viewed at an angle perpendicular to such fences or vegetative materials;

(7) Dwelling units must front on street. Townhouse dwellings shall be located on lots in such a way that each individual dwelling unit has a minimum of 15 feet of street frontage;

(8) Required drawings. All applications for building permits shall include the following information: a site plan and landscape plan as defined in this Code, such plans to be drawn at a scale of not less than 1/8 inch equals one foot; and, a complete set of four building elevations drawn at a scale of not less than 1/8 inch equals one foot indicating the size and location of all windows and doors. Such drawings shall also contain notations on the type of exterior materials and details of all fences;

(9) Review by the secretary of the city planning commission. Each application for a building permit for a townhouse dwelling located in a two-family residential district shall be forwarded to the secretary of the city planning commission for review and certification that such application is in compliance with the terms of this Section;

(10) Limitations on variances. Notwithstanding the provisions of Section 50-47 of this Code, no variance from the strict application of the requirements established in this Article for townhouse dwellings in R-2 two-family residential districts shall be granted except variation of not more than ten percent of the dimensional requirements established in this Article;

(d) Day care facility serving 13 through 16 persons, provided a special use permit is secured according to the procedures set forth in Article IV;

(e) Group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to more than 14 children;

(f) Bed and breakfast inn;

(g) Bed and breakfast country inn containing no more than 12 habitable units in addition to the owner's dwelling unit, provided a special use permit is secured according to the procedures set forth in Article IV;

(h) Residential rooming house containing 12 or fewer habitable units, provided a special use permit is secured according to the procedures set forth in Article IV.

Section 6. That Section 50-72 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 50-72. Permitted uses.

A building or premises in the R-3 apartment residential district shall be used only for the following purposes:

(a) Any use permitted in the R-2 two-family residential district;

(b) Apartment hotel;

(c) Multiple dwelling;

(d) Row or group dwellings, subject to the requirements of Section 50-38;

(e) Religious, educational, eleemosynary institutions of a philanthropic nature, but not a penal or mental institution;

(f) Nursing, rest or convalescent home;

(g) Private club, fraternity, sorority or lodge, excepting one the chief activity of which is a service customarily carried on as a business;

(h) Accessory building or use customarily incidental to any of the above uses, including a storage garage on a lot occupied by a multiple dwelling, apartment hotel, row or group house, rooming or boardinghouse, provided that any such accessory building shall be erected at the same time or after the construction of the principal building;

(i) Residential care facility;

(j) Day care facility;

(k) Elderly congregate housing facility;

(l) Residential rooming house;

(m) Commercial rooming house, provided a special use permit is secured according to the procedures set forth in Article IV;

(n) Bed and breakfast country inn.

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 14, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 28, 2002
Approved May 28, 2002
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9534

BY COUNCILOR STOVER:

AN ORDINANCE CONVEYING A HIGHWAY EASEMENT IN CERTAIN PROPERTY NEAR McCUEN STREET TO THE STATE OF MINNESOTA FOR A CONSIDERATION OF \$17,620.

The city of Duluth does ordain:

Section 1. That the city of Duluth does hereby convey, grant, and sell to the state of Minnesota, for a consideration of \$17,620, such funds to be deposited into Permanent Improvement Fund 0411, a perpetual easement for highway purposes on and over real property in St. Louis County, Minnesota, described as follows:

That part of Tract A described below:

Tract A: The 200 foot wide right-of-way, being 100 feet wide on each side of the track center line of Burlington Northern, Inc.'s Spirit Lake to West Duluth, Minnesota, branch line as it crosses Government Lot 3 of Section 11, Township 48 North, Range 15 West, St. Louis County, Minnesota;

Tract B: That part of the 100 foot wide strip of land adjoining the Northern Pacific Railroad Company (shown as St. Paul and Duluth R.R.) on the easterly side and marked reserved on the plat of Manufacturers Division of New Duluth, as the same is on file and of record in the office of the county recorder in and for St. Louis County, Minnesota, lying between the northerly extension of the west line of Lot 5, Block H, said Manufacturers Division of New Duluth and southerly right-of-way line of Spirit Lake Transfer Railway (now Duluth, Missabe and Iron Range Railway);

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

which lies northerly of the northerly line of McCuen Street and southerly of Line 1 described below:

Line 1: Beginning at a point on the west line of said Section 11, distance 1940.30 feet south of the northwest corner thereof; thence easterly at an angle of 89 degrees 53 minutes 12 seconds from said west section line (measured from south to east) for 700 feet and there terminating;

together with that part of Tract B hereinbefore described which lies northerly of the northerly line of a 100 foot wide strip for the easterly extension of McCuen Street; containing 0.77 acre, more or less, in the unplatted portion.

Section 2. That the proper city officers are authorized to execute the documents of conveyance, copies of which filed as Public Document No. 02-0528-28 (Exhibit A), necessary to convey said easement.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 12, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 28, 2002
Approved May 28, 2002
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, June 3, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR STOVER:

RESOLVED, that Northland Bituminous be and hereby is awarded a contract for the bituminous restoration on College Street between Junction Avenue and Woodland Avenue, on Junction Avenue between College Street and St. Marie Street and on St. Marie Street between Junction Avenue and Woodland Avenue for the engineering division in accordance with specifications on its low specification bid of \$411,076.30, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2172, Object 5530.

Resolution 02-0369 was unanimously adopted.

Approved June 3, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Hovland Inc., be and hereby is awarded a contract for construction of UMD lighting and sidewalks on Junction Avenue for the engineering division in accordance with specifications on its low specification bid of \$157,448.20, terms net 30, FOB job site, payable out of Permanent Improvement Program Fund 0411, Dept./Agency 035, Organization 2155, Object 5530.

Resolution 02-0372 was unanimously adopted.

Approved June 3, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Letourneau & Sons, Inc., be and hereby is awarded a contract for construction year 2002 street improvement of Kenwood Lower for the engineering division in accordance with specifications on its low specification bid of \$815,825.90, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0203, Object 5530.

Resolution 02-0373 was unanimously adopted.

Approved June 3, 2002

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 7:10 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 10, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Absent: Councilor Bergson -- 1

- - -

The minutes of the city council meeting held on May 13, 2002, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0610-11 John and Roberta App submitting petition to vacate the westerly 12 feet of vacated 44th Avenue East adjacent to Lot 9, Block 101, London Division. -- Assessor

02-0610-01 W.J.A. Properties submitting petition to vacate the air rights of the right-of-way of a portion of East Superior Street and 60th Avenue East. -- Assessor

02-0610-02 Minnesota state department of transportation submitting finding of fact, conclusions and negative declaration order regarding T.H. 53 (Piedmont Avenue) project (01-0870R). -- Received

02-0610-13 Jan Karon submitting letter regarding mass transit and pedestrian transit zones proposal (02-015-O). -- Received

02-0610-14 The following submitting letters regarding the religious and spiritual significance of Spirit Mountain to the Anishinaabeg (02-0393R): (a) Debra Hamilton; (b) Suzanne E. Szucs. -- Received

02-0610-15 The following submitting communications regarding the establishment of a resident permit parking zone in the Denfeld High School area (01-0704R): (a) Denfeld High School; (b) Patricia Berg. -- Received

- - -

REPORTS OF OFFICERS

02-0610-03 Assessor submitting:

(a) Affidavit of mailing of notice of hearing by the special assessment board on Tuesday, June 11, 2002, at 3:00 p.m., in Room 106A, City Hall, regarding reassessment of canceled assessments for various projects which occurred in 1988, 1989 and 1991. -- Clerk

(b) Letters of sufficiency of petitions to:

(1) Construct a permanent design alley in 57th Avenue West Alley between 57th Avenue West and Cody Street;

(2) Vacate 400 foot easement in southeast quarter of the northwest quarter of Section 15, Township 50 North, Range 14 West of the Fourth Principal Meridian. -- Received

02-0610-04 Clerk submitting application to Minnesota gambling control board for exemption from lawful gambling license from March or Dimes (raffle) on October 17, 2002. -- Received

02-0610-05 Parks and recreation department director submitting Lake Superior zoological society: (a) Minutes of March 27, 2002, meeting; (b) Executive board reports of May 22, 2002. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-0610-06 Board of zoning appeals minutes of April 23, 2002, meeting. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

02-0610-07 Civil service board minutes of: (a) April 3; (b) April 8, 2002, meetings. -- Received

02-0610-08 Duluth airport authority: (a) Balance sheet of March 31; (b) Minutes of April 16, 2002, meeting. -- Received

02-0610-09 Duluth transit authority: (a) Financial statement summary for April; (b) Minutes of March 27, 2002, meeting. -- Received

02-0610-10 Parks and recreation commission minutes of May 8, 2002, meeting. -- Received

02-0610-11 Planning commission minutes of: (a) April 9; (b) April 24, 2002, meetings. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Greg Price expressed concern for the unresolved issue of the dumping of waste material barrels in Lake Superior between 1959 and 1962. He stated that there was no need for that dumping because there were other means to handle that disposal and that the federal government should take responsibility for the clean up.

- - -

RESOLUTIONS TABLED

Councilor Stewart moved to remove Resolution 02-0286(c), confirming appointment to new human rights commission, from the table, which motion was seconded and unanimously carried.

Resolution 02-0286(c) was adopted as follows:

BY COUNCILOR STEWART:

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

HUMAN RIGHTS COMMISSION - Teresa Munoz-Sierra for a term expiring April 20, 2004.

Resolution 02-0286(c) was unanimously adopted.

Approved June 10, 2002

GARY L. DOTY, Mayor

- - -

Councilor Gilbert moved to remove Resolution 02-0353, approving the 2002 revised program guidelines for the city's neighborhood matching grants fund program, from the table, which motion was seconded and unanimously carried.

Resolution 02-0353 was adopted as follows:

BY COUNCILOR GILBERT:

RESOLVED, that the 2002 revised neighborhood matching grants funds guidelines (Public Document No. 02-0610-16) and revised program contract format are hereby approved.

Resolution 02-0353 was unanimously adopted.

Approved June 10, 2002

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BY COUNCILOR ATKINS:

RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following off sale intoxicating liquor license and transfer of stock, for the period ending August 31, 2002, subject to departmental approvals, the payment of sales and property taxes, and further subject to the approval of the liquor control commissioner:

Kenwood Liquor, Inc. (Kenwood Liquor), 1340 Kenwood Avenue, with Shawn Proudlock, president/treasurer and 100 percent stockholder, transferred from Kenwood Liquor, Inc. (Kenwood Liquor), 1310 Kenwood Avenue, with Peggy Proudlock, president, 100 shares, and James Proudlock, vice president and 100 shares.

Resolution 02-0337 was unanimously adopted.

Approved June 10, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, the Lake Superior Marine Museum Association has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Lake Superior Marine Museum Association and does hereby waive the 60 day waiting period which it has to object to the issuance of said 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 02-0374 was unanimously adopted.

Approved June 10, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that A.B.M. Equipment and Supply, Inc., be and hereby is awarded a contract for furnishing and delivering one aerial bucket truck for the fleet service division in accordance with specifications on its low specification bid of \$88,531.32, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization RS02, Object V213.

Resolution 02-0388 was unanimously adopted.

Approved June 10, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Vine Body Shop be and hereby is awarded a contract for furnishing annual contract auto body repairs for all city cars, vans, pickups during the year 2002 for the fleet division in accordance with specifications on its low specification bid of \$30,000, terms 30, FOB destination, \$10,000 payable out of Fleet Fund 0660, Dept./Agency 015, Organization 1560, Object 5404 and \$20,000 payable out of Fleet Fund 0660, Dept./Agency 015, Organization 1560, Object 5221.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Resolution 02-0389 was unanimously adopted.
Approved June 10, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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:

Bayfront BBQ, Inc. (Famous Dave's), 355 Lake Avenue South, for June 22, 2002, with the serving ceasing at 12:30 a.m.

Resolution 02-0397 was unanimously adopted.
Approved June 10, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

COMMUNITY DEVELOPMENT COMMITTEE - Claudia Lundquist (Lincoln Park) for a term expiring March 1, 2005, replacing Joseph Perfetti who resigned.

Resolution 02-0356 was unanimously adopted.
Approved June 10, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

BOARD OF ZONING APPEALS - Jeffrey Jackson (planning commission) and Howard Martz for terms expiring July 31, 2006.

Resolution 02-0358 was unanimously adopted.
Approved June 10, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

DULUTH AIRPORT AUTHORITY - Julie Larson-Williams and Nancy Norr for terms expiring July 1, 2005.

Resolution 02-0359 was unanimously adopted.
Approved June 10, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

LIBRARY BOARD - Terese M. Tomanek and Mavis Whiteman for terms expiring June 1, 2007.

Resolution 02-0360 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Approved June 10, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

PARKING COMMISSION

Valerie Ouellette (District 3) and Michael Polzin (at large) to terms expiring July 1, 2005.

Terry Fawcett (at large) to a term expiring July 1, 2004, replacing Scott Welles who resigned.

Resolution 02-0361 was unanimously adopted.

Approved June 10, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the city of Duluth hereby accepts HUD lead-based paint clearance testing funds from HUD's office of healthy homes and lead hazard control for lead-based paint clearance examination services in an amount up to \$19,500 to be deposited into Fund 0262, Agency 020, Organization 2600, Revenue Source 4210.

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. 02-0610-17, with HRA related to lead-based paint clearance examination services, payable from Fund 0262, Agency 020, Organization 2600, Object 5447.

Resolution 02-0377 was unanimously adopted.

Approved June 10, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and Oneida Realty Company in the amount of \$27,000, as approved by the DEDA board at its meeting of May 21, 2002, pursuant to DEDA Resolution No. 02D-31, a copy of which is on file in the office of the city clerk as Public Document No. 02-0610-18, is hereby approved.

Resolution 02-0367 was unanimously adopted.

Approved June 10, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and ABC in the amount of \$25,000, as approved by the DEDA board at its meeting of May 21, 2002, pursuant to DEDA Resolution No. 02D-30, a copy of which is on file in the office of the city clerk as Public Document No. 02-0610-19, is hereby approved.

Resolution 02-0368 was unanimously adopted.

Approved June 10, 2002
GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officers hereby authorize Amendment #1 to Agreement #19036 with Stanius Johnson Architects, for the sum of not to exceed \$40,000, payable from Fund 0430, Agency 020, Object 5303, for providing certain additional professional architectural services to the city of Duluth in connection with the construction of an aviation incubator facility at Duluth International Airport, 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. 02-0610-20.

Resolution 02-0378 was unanimously adopted.

Approved June 10, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

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. 02-0610-21, to City Contract No. 14834 with St. Louis County related to the lease of property for the 911 communications facility, with no change in amount paid under the lease.

Resolution 02-0381 was unanimously adopted.

Approved June 10, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement between the city of Duluth and the Duluth/North Shore sanitary district for the use of city streets and right-of-ways by the sanitary district for a public sewer utility, said agreement filed as Public Document No. 02-0610-22.

Resolution 02-0385 was unanimously adopted.

Approved June 10, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are authorized to execute a pipeline license agreement substantially in the form of the agreement (Public Document No. 02-0610-23) between the city of Duluth and Burlington Northern and Santa Fe Railway Company wherein the city is granted a license to construct a pipeline in the railroad right-of-way near Garfield Avenue and I-35 for a consideration of \$1,500; said money to be paid from Fund 0521, Agency 500, Object 5532.

Resolution 02-0380 was unanimously adopted.

Approved June 10, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are authorized to execute the grant agreement, filed as Public Document No. 02-0610-24, accepting \$20,000 from the Minnesota department of commerce to partially fund the installation of a photovoltaic cell on the roof of the main branch of the Duluth public library.

BE IT FURTHER RESOLVED, that all revenues from the grant shall be deposited in Fund 0100, Agency 015, Org. 1515, Revenue Source 4230, and the city's matching portion of the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

project will be drawn from the following sources: \$3,326.52 from Johnson Controls grant, \$3,428.26 from Fund 0100, Agency 015, Org. 2500, Object 5401.

Resolution 02-0382 was unanimously adopted.

Approved June 10, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Northland Materials, LLC, dba Northland Bituminous, be and hereby is awarded a contract for mill and bituminous overlay on 60th Avenue East between London Road and Superior Street for the engineering division in accordance with specifications on its low specification bid of \$41,984.80, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2183, Object 5530; to be reimbursed through municipal state aid turnback funds.

Resolution 02-0386 was unanimously adopted.

Approved June 10, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Glacier Paving, Inc., be and hereby is awarded a contract for the mill and bituminous overlay on London Road between 13th Avenue East and 25th Avenue East for the engineering division in accordance with specifications on its low specification bid of \$570,502.83, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2173, Object 5530; to be reimbursed by municipal state aid turnback funds.

Resolution 02-0387 was unanimously adopted.

Approved June 10, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that pursuant to Minnesota Statutes Sections 645.02 and 645.021, the Duluth City Council hereby approves Laws of Minnesota 2002, Chapter 398, Section 10, and directs the city clerk to file a certificate of approval of such special law with the secretary of state.

Resolution 02-0390 was unanimously adopted.

Approved June 10, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement with Short Elliott Hendrickson, Inc., filed as Public Document No. 02-0610-25, for professional services needed in conjunction with the remediation and restoration of the Sargent's Creek dump site. The compensation under this agreement shall not exceed \$105,785 and shall be paid from the Self Insurance Fund 0610-036-1651-5319.

Resolution 02-0391 was unanimously adopted.

Approved June 10, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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 2002 in the city's self insurance fund in the amount of \$53,564 for purposes of general liability, workers' compensation and employee honesty bond coverage, which agreement shall be substantially in the form of Public Document No. 02-0610-26, on file in the office of the city clerk. Payments received will be deposited in Self-Insurance Fund 0605-036-1658.

Resolution 02-0375 was unanimously adopted.

Approved June 10, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

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 2002 in the city's self insurance fund in the amount of \$15,379 for purposes of workers' compensation and employee honesty bond coverage, which agreement shall be substantially in the form of Public Document No. 02-0610-27, on file in the office of the city clerk. Payments received will be deposited in Self-Insurance fund 0605-036-1659.

Resolution 02-0376 was unanimously adopted.

Approved June 10, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are authorized to execute an agreement, filed as Public Document No. 02-0610-28, with the Duluth state convention center administrative board to produce, promote and manage the Fourth of July festival celebration at Bayfront Festival Park for a consideration not to exceed \$25,000; payable from Special Projects and Events Account 0100-015-2030.

Resolution 02-0379 was unanimously adopted.

Approved June 10, 2002

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 02-0384, by Councilor Atkins, requesting the charter commission to recommend adoption of an ordinance amending Section 31 of the City Charter to provide a local preference in the awarding of city contracts, was introduced for discussion.

Councilors Atkins and Stenberg supported the resolution for the charter commission to have discussion on this issue.

Councilors opposing this resolution expressed concerns that: Duluth needs to think of itself as a regional center; there has not been any financial analysis, as to the cost to the city of Duluth, for taking higher bids; a company outside of Duluth would feel that it was not worth submitting a bid because the chances of receiving the bid were small, thus the number of bidders would go down and the costs would increase even more; some projects funding sources are state aid and there is a public trust in spending the public tax dollars.

Councilor Stenberg moved to table the resolution, which motion was seconded and failed.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Resolution 02-0384 failed upon the following vote (Public Document No. 02-0610-12):

Yeas: Councilors Atkins and Stenberg -- 2

Nays: Councilors Gilbert, Hogg, Stauber, Stewart, Stover and President Ness -- 6

Absent: Councilor Bergson -- 1

- - -

Resolution 02-0362, by Councilor Stewart, confirming reappointments of John Goldfine and Sidney Mason to Spirit Mountain recreation area authority, was introduced for discussion.

Councilors Stewart and Stover opposed the resolution, citing reasons of: the direction the authority has taken on neglecting issues such as the old growth forest and sacred Native American grounds; the authority has passed up funding from the U.S. Olympic Committee and that other individuals have not been considered for appointment.

Resolution 02-0362 was adopted as follows:

BY COUNCILOR STEWART:

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

SPIRIT MOUNTAIN RECREATION AREA AUTHORITY

John Goldfine and Sidney R. Mason for terms expiring June 30, 2005.

Resolution 02-0362 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Hogg, Stauber, Stenberg, and President Ness -- 6

Nays: Councilors Stewart and Stover -- 2

Absent: Councilor Bergson -- 1

Approved June 10, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0393, by Councilor Gilbert, recognizing the religious and spiritual significance of Spirit Mountain to the Anishinaabeg, was introduced for discussion.

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

Councilor Gilbert moved to further suspend the rules to allow Winona LaDuke and Tom Maulson to have additional time to speak, which motion was seconded and discussed.

The rules were unanimously suspended to allow Winona LaDuke and Tom Maulson additional time to speak.

Doug Bowen Bailey, Winona LaDuke, Tom Maulson, Butch Stone, Tom Matines, Joe Dan Rose, LeRoy Defoe, C.J. Bird, Warner Wirta, Elizabeth Dahl, Dan Conley, Ann Jorgenson, Scott Pilate, Kay L. Lewis, Beatrice Pogin, Doug Happy and John Dempster, spoke in support of the resolution, citing reasons of: the Arrowhead Inter-Faith Council supports the resolution; Spirit Mountain is part of the Anishinaabeg migration story comparable to the Christian significance of Mount Sinai; religious freedom was not granted until the federal government passed the 1978 American Indian Religious Freedom Act; prior to 1978, Indians practiced their religion in secret, thus there was no written record; Spirit Mountain is a burial site for the Anishinaabeg; in 1996, Executive Order 13007 specifically addressed the protection of Native American sacred sites; Spirit Mountain should be given the same respect and consideration that is shown for cemeteries; at a recent reenactment of the Anishinaabeg migration to Spirit Mountain, 15 grave sites were found; supporting this resolution is a sign of honor;

medicinal plants in the old growth forest are located on the mountain; land surface is not static and changes have taken place over many years, making it difficult to find more visible signs of Indian burials; a spear head was recently found off the St. Louis River; the preponderance of evidence

should be considered; the stewardship of the land is important here and this land was originally the American Indians'.

Charles Andresen, chairman of the Spirit Mountain recreation area authority, stated that the authority has always been concerned about there being Indian burial grounds on the site, noting that to date, the archaeological studies done there have found no discovery of Indian burial grounds on the property. He further questioned if this discussion is getting close to breach of separation of church and state.

The council discussed this at length.

Councilor Gilbert moved to table the resolution so it could be reviewed for possible amendments, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR STEWART

02-015 - AN ORDINANCE AMENDING CITY CODE SECTION 45-4.1 AND ADDING NEW SECTIONS 45-4.4 AND 45-4.5, CREATING MASS TRANSIT ZONES AND PEDESTRIAN TRANSIT ZONES.

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

Jack Heidenicich, Sean Taylor, Derek Williams, Andrew Olson and Kay L. Lewis spoke in opposition and/or concern of the ordinance for the reasons of: there will be those who will get singled out for violating this, just because of the type of clothes or color of their hair; it is a human rights issue when you say certain people can gather in a specific spot and others cannot; with more people on the street these situations will be noticed less; this will put more pressure on those youth who are already at risk; the majority of youth who hang out in the Downtown area are good people, there are only a few people who cause problems; a petition drive has started to show support for the youth who are not causing any problems; there are no justifications or definitions of inappropriate activities stated for the transit zones; if this was enforced consistently, this would affect many individuals who it does not mean to; who will be doing the enforcement; there are already laws in place to prohibit the activities that are not appropriate and that possibly Michigan and First streets could be used for bus traffic.

- - -

BY COUNCILOR STENBERG

02-017 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 5 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-2 TWO FAMILY RESIDENTIAL TO C-1 COMMERCIAL PROPERTY LOCATED AT 1602 COMMONWEALTH AVENUE (CLARK/BOBEN).

- - -

BY PRESIDENT NESS

02-019 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF AN EASEMENT FOR HIGHWAY PURPOSES IN CERTAIN UNUSED LAND IN ENGER PARK TO THE STATE OF MINNESOTA FOR A CONSIDERATION OF \$27,500.

- - -

BY COUNCILOR STOVER

02-018 - AN ORDINANCE AUTHORIZING CONVEYANCE TO ST. LOUIS COUNTY OF PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR

HIGHWAY PURPOSES FOR RECONSTRUCTION OF COUNTY STATE AID HIGHWAY 17 (STEBNER ROAD).

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STENBERG

02-014 (9535) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO CARLA BLUMBERG FOR A FIXED AWNING TO PROJECT INTO AND OVER THE RIGHT-OF-WAY OF EAST EIGHTH STREET AND 19TH AVENUE EAST LOCATED ADJACENT TO 1902 EAST EIGHTH STREET.

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

- - -

BY PRESIDENT NESS

02-016 (9536) - AN ORDINANCE AUTHORIZING THE DULUTH CITY COUNCIL TO PROVIDE FOR ADDITIONAL REGULAR VISITOR'S PERMITS IN RESIDENT PERMIT PARKING ZONES; AMENDING SECTION 33-126 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Thomas Tusken, Denfeld social studies teacher, William Westholm, principal of Denfeld High School, and Kadee Johnson spoke in support of the ordinance for the reasons of: Denfeld will send out a letter (Public Document No. 02-0610-15(a)) identifying how this would work and who to contact; even a one-year trial period will see how this will work for both the school and the neighbors; the rear parking lot should be completed this fall, which will help the parking situation; there is not enough space in the parking lot for all of the students who drive; many students have after school activities and jobs that necessitate them to drive; most residents in the area go to work each day and this would not affect them; the students creating the litter problems are mostly the ones who walk to school and one of the biggest problems is the attraction of older students and drop-outs to the school, which contributes to the neighborhood problems.

Patricia Berg, George Hashey and Clarence Berg spoke in opposition of the ordinance for the reasons of: for six years the neighbors have wanted this and then, when permit parking was approved last year, it was delayed from being implemented; there is no communication from the school board and Denfeld High School to the neighbors; all students do not need to drive to school; the original plan should have been implemented which would force the school district solve their problem; this needs to be resolved before Central High School closes and the problem worsens; a teacher will not be able to leave a class and solve any problems that develop; Congressman Oberstar is promoting a program (Public Document No. 02-0610-15(b)) that for health reasons encourages walking and bicycling to school; and after six years of working for this, with only one meeting with the school, there is now a plan to issue permits to students.

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

Yeas: Councilor Atkins, Gilbert, Hogg, Stenberg, Stewart, Stover and President Ness -- 7

Nays: Councilor Stauber -- 1

Absent: Councilor Bergson -- 1

- - -

The meeting was adjourned at 10:17 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9535

BY COUNCILOR STENBERG:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO CARLA BLUMBERG FOR A FIXED AWNING TO PROJECT INTO AND OVER THE RIGHT-OF-WAY OF EAST EIGHTH STREET AND 19TH AVENUE EAST LOCATED ADJACENT TO 1902 EAST EIGHTH STREET.

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 Carla Blumberg, her successors and interests, referred to herein as the permittee, to occupy, erect and maintain a fixed awning into and over that part of East Eighth Street and 19th Avenue East as the same are dedicated to the use of the public on the plat of Highland Park Addition to 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:

the southerly six feet of Eighth Street and the easterly six feet of 19th Avenue East adjacent to Lots 1 and 2, Block 25, Highland Park Addition to Duluth.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance; a certificate of insurance approved as to form by the city attorney evidencing that such person or organization has in force insurance in the minimum amounts of \$300,000 for bodily injuries resulting in any year and \$50,000 property damage in any one year protecting such person or organization and the city of Duluth against liability for injuries or damages resulting from the placement of such objects or materials on public sidewalks or boulevard areas. The permission granted by such ordinance shall be conditioned upon such person or organization continuing to supply the city with evidence that such insurance remains in effect and all insurance required herein shall contain a provision that no policy may be canceled until ten days after written notice is given to the city clerk. Such policy shall name the city as an additional insured; and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

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

Section 4. That upon the giving of the notice of termination as aforesaid, the permittee shall remove said 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 permittee, and without right on the part of the permittee to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittee hereby agrees to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittee, and agree that such 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 East Eighth Street and 19th Avenue East and agree that the city of Duluth shall not be liable for damage caused to such decking while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such fixed awning in said East Eighth Street and 19th Avenue East.

Section 6. That the permittee shall further observe the following conditions:

(a) All required building permits shall be obtained;

(b) The city engineering department shall approve, in writing, all applicable building permits.

Section 7. That this ordinance shall not be valid if the above cited permits in Section 6 are not issued and improvements completed within 12 months from the effective date of this ordinance.

Section 8. The term of this permit shall expire with the sale of the property by this permittee and said awning and all fixtures and pertinencies of every kind whatsoever attached thereto shall be removed from the tract of land described above within 60 days, unless the new property owner applies for and receives a replacement ordinance within said 60 days.

Section 9. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 21, 2002)

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

Yeas: Councilors Atkins, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Nays: None -- 0

Absent: Councilor Bergson -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed June 10, 2002

Approved June 10, 2002

GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9536

BY PRESIDENT NESS:

AN ORDINANCE AUTHORIZING THE DULUTH CITY COUNCIL TO PROVIDE FOR ADDITIONAL REGULAR VISITOR'S PERMITS IN RESIDENT PERMIT PARKING ZONES; AMENDING SECTION 33-126 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 33-126 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-126. Types and numbers of permits available; eligibility criteria; fees.

Any resident of any property which abuts any portion of any street or highway which portion is included in any resident permit parking zone, who is not less than 16 years old, may apply to the city clerk for resident's permits and/or visitor's permits for such zone. For any such resident to be eligible for such permits such resident must specify the address at which such resident is residing and must verify that such residence is the resident's permanent or usual place of abode. For any such

eligible resident to be eligible for resident's permits, such resident must specify and verify for each vehicle for which such a permit is sought, the name of the manufacturer of such vehicle, the model year of such vehicle, and the license plate number assigned to such vehicle, and that the resident has a bona fide possessory interest in each such vehicle, as an owner, purchaser or lessee. Any such eligible resident may obtain a resident's permit for each such vehicle in which the resident has such a bona fide possessory interest. Any such eligible resident may obtain two regular visitor's permits, provided that a total of no more than four regular visitor's permits shall be issued to the inhabitants of any one "dwelling unit" as such term is defined in Chapter 29A, and may obtain any number of special visitor's permits. Notwithstanding the provisions above, the city clerk may issue regular visitor's permits in excess of two per occupant or four per dwelling unit, and may issue regular visitor's permits to nonresidential building occupants in the zone, but only upon the joint recommendation of the police department and the traffic engineer. The police department and traffic engineer shall fully investigate any application for additional regular visitor's permits before making a positive or negative recommendation to the city clerk. Notwithstanding the provisions of this Section, the Duluth City Council may, by resolution, authorize the city clerk to issue additional regular visitor's permits to nonresidential building occupants in the zone subject to any terms and conditions the city council deems appropriate.

Any such eligible resident may obtain a replacement for any resident's permit or regular visitor's permit obtained by such resident and verified by such resident as having been lost or destroyed; and permit so replaced shall then be invalid.

The city council may, by resolution, prescribe a fee for any permit issued pursuant to this Article.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 21, 2002)

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

Yeas: Councilors Atkins, Gilbert, Hogg, Stenberg, Stewart, Stover and President Ness -- 7

Nays: Councilor Stauber -- 1

Absent: Councilor Bergson -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 10, 2002
Approved June 10, 2002
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council on Monday, June 17, 2002, 7:05 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stewart, Stover and President Ness -- 8

Absent: Councilor Stenberg -- 1

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement the documents, certifications and agreements, including the mortgage, reimbursement agreement and pledge agreement on file with the city clerk as Public Document No. 02-0617-01, necessary for the city to supply a letter of credit in favor of the trustee for the bondholders that is required by the city's agreement in the indenture of trust, dated 1985, for the issuance of Series 1985 bonds in principal amount of \$29,300,000 (Lake Superior Paper Industries project), including Section 512 thereof, letter of credit to be in the amount of \$9,670,833.34, issued by Wells Fargo Bank Minnesota, N.A.

Resolution 02-0402 was unanimously adopted.

Approved June 17, 2002

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 7:10 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 24, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Hogg, Stauber, Stewart, Stover and President Ness -- 7

Absent: Councilors Bergson and Stenberg -- 2

- - -

The minutes of the city council meeting held on May 28, 2002, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0624-01 John E. Hovland submitting:

(a) Rezoning petition to reclassify from S to R-1-a the Plat of Greenbriar Hills located in Section 9, Township 50, Range 14, less Block 3, Lot 1;

(b) Vacation petition to vacate Greenbriar Hills located in Section 9, Township 50, Range 14, less Block 3, Lot 1. -- Assessor

02-0624-02 Joseph Kleiman submitting application for a concurrent use permit to construct a new entry awning and stoop located at the southwest corner of 1932 West Michigan Street. -- Planning commission

02-0624-31 The following submitting communications regarding the proposed mass transit and pedestrian transit zones (02-015-O): (a) Ace Hardware Downtown; (b) Bagley and Company Jewelrys; (c) Downtowners (supported by 167 signatures); (d) Electric Fetus; (e) Greater Downtown Council; (f) Greater Downtown Council and Chamber of Commerce (supported by 580 signatures); (g) Mary Alice Harvey; (h) Holiday Center Merchants; (i) Lake Superior Maritime Visitor Center; (j) Joel Sipress. -- Received

02-0624-32 The following submitting communications regarding reduction of prescription drug prices: (a) Coalition to Lower Drug Prices; (b) Carl Meirick (Hermantown, MN). -- Received

02-0624-33 The following submitting communications regarding the establishment of a resident permit parking zone in the Denfeld High School area (01-0704R): (a) Millicent Nesgoda; (b) Jack Smith. -- Received

02-0624-03 Minnesota state auditor submitting Duluth economic development authority audit report for the year ended December 31, 2001.-- Received

- - -

REPORTS OF OFFICERS

02-0624-04 Assessor submitting:

(a) Letter of insufficiency to vacate a portion of the air rights of the right-of -ways of East Superior Street and 60th Avenue East;

(b) Letter of sufficiency to vacate the westerly 12 feet of vacated 44th Avenue East adjacent to Lot 9, Block 101, London Addition. -- Received

02-0624-05 Clerk submitting application to Minnesota gambling control board for exemption from lawful gambling license from St. Margaret Mary Church (bingo and raffle) on September 15, 2002. -- Received

02-0624-06 Community development and housing division submitting HRA housing rehabilitation report for March 2002. -- Received

02-0624-07 Engineering division submitting monthly project status report of June 1, 2002. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

02-0624-34 Finance department director submitting comprehensive annual financial report for the fiscal year ended December 31, 2001. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-0624-08 Board of zoning appeals minutes of May 28, 2002, meeting. -- Received

02-0624-09 Building appeal board minutes of November 14, 2001, meeting. -- Received

02-0624-10 Housing and redevelopment authority of Duluth minutes of April 30, 2002, meeting. -- Received

02-0624-11 Parking commission minutes of May 14, 2002, meeting. -- Received

02-0624-12 Planning commission, UMD area traffic ad-hoc committee, submitting Niagara Street closure report, pursuant to Resolution 01-0841. -- Received

02-0624-13 Seaway Port authority of Duluth minutes of April 17, 2002 meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Elsie Robinson questioned the status of the gas report and asked people to be on the committee.

President Ness stated that he will have a resolution before the council to appoint a task force to make recommendations to the regarding water and gas policy issues.

- - -

Benace stated that Spirit Mountain is a spiritual place according to the teachings of the Anishinaabeg and that young people really need to know the history of their people.

- - -

Masqua Banai questioned the original documentation of Spirit Mountain and how it was obtained, given the treaty rights for the mountain.

- - -

Michaela Morrow stated that she opposes the Spirit Mountain development because: the environmental damage to the property; this is sacred Indian ground; Duluth does not need any more hotels and the jobs that are being created are low paying jobs.

- - -

John Gordon questioned who would prosecute city councilors for committing a criminal act.

- - -

Ron McDonald urged councilors to consider allowing more taxicabs in the city and noted that, as a regular user of taxicabs, there is a need for more taxicabs.

- - -

KL Lewis stated that there are better uses for Spirit Mountain than a golf course; that the city needs to follow up on the issues of barrels in Lake Superior and that the water and gas policy issues need to be reviewed.

- - -

Matt Beaumier, attorney for a potential taxicab owner, acknowledged that the city has the authority to regulate the taxicab industry, to set the number of taxicab licenses and can change the number of taxicabs without losing control of the industry.

- - -

Dennis Mitchell reviewed that his taxi business gets less than four complaints a month; so that shows that they do care about customer relations. He stated that if you open this up for more licenses the current licensees will need to get more taxicabs to compete and then taxicab stands Downtown would be at a premium.

- - -

Michael Mathias thanked the council for consideration and support for the increase in the number of taxi licenses.

- - -

President Ness recessed the council meeting at 7:32 p.m. and called the public hearing regarding Northstar Machine and Tool Company to order.

Heidi Timm-Bijold, planning and development department, stated that a resolution is on the agenda to award a grant \$150,000 to make a loan to Northstar Machine and Tool Company to support their expansion needs and equipment. She reviewed that the company has experienced tremendous growth and is the largest supplier to Cirrus. Mr. Timm-Bijold added that the company hopes to create another 30 jobs by 2003.

No one else appeared who wished to be heard and the public hearing was adjourned at 7:35 p.m.

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals:

Mr. D's Coed Softball Tournament, Wheeler Field, for July 13 and 14, 2002, with Darrell Eckenberg, manager.

Duluth Police Softball Team, Wheeler Field, for July 20 and 21, 2002, with Barry Midthun, manager.

Woodland Fastpitch Association (Jimmy Herold Memorial Tournament), Anoka Street and Woodland Avenue, for July 13 and 14, 2002, with Brett Klosowski, manager.

Resolution 02-0410 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale intoxicating liquor licenses, with an application fee of \$200, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Northland Country Club, 3901 East Superior Street, for August 14, 2002, with Regie Christensen, manager.

Northland Vietnam Veterans Association, Bayfront Park, for August 9, 10 and 11, 2002, with Sandra Fjeld, manager.

Resolution 02-0411 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license, for the period ending August 31, 2002, subject to departmental approvals and the payment of sales and property taxes:

Moose, Loyal Order #1478, 1306 Commonwealth Avenue, transferred from Moose, Loyal Order #1478, 411 North 57th Avenue West, with Earl Elde, administrator.

Resolution 02-0412 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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:

PK & JS, Inc. (Twins Bar), 501 East Fourth Street, for July 26, 2002, with the music and serving until 11:00 p.m.

Resolution 02-0413 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Larson Chevrolet-Olds be and hereby is awarded a contract for furnishing and delivering one Chevrolet cab and chassis 4x4 with dump body for the fleet services division in accordance with specifications on its low specification bid of \$41,015.39, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Department/Agency 015, Organization RS02, Object V208.

Resolution 02-0428 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Engineering & Construction Innovations, Inc., (ECI) be and hereby is awarded a contract for construction of grassy point trail for the city architect division in accordance with specifications on its low specification bid of \$192,108, terms net 30, FOB job site, payable out of Capital Improvement Fund 0450, Department/Agency 015, Organization 2001, Object C117.

Resolution 02-0429 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Miller Hill Jeep-Eagle Isuzu be and hereby is awarded a contract for furnishing and delivering one utility vehicle for the fleet services division in accordance with specifications on its low specification bid of \$11,633.79, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Department/Agency 015, Organization RS02, Object V206.

Resolution 02-0430 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BY COUNCILOR ATKINS:

RESOLVED, that Eggebrecht Chevrolet Olds be and hereby is awarded a contract for furnishing and delivering one Chevrolet cab and chassis for the fleet services division in accordance with specifications on its low specification bid of \$36,820.83, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Department/Agency 015, Organization RS02, Object V213.

Resolution 02-0431 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of fleet services lead storekeeper, including a title change to manager, maintenance and supply services, which were approved by the civil service board on May 15, 2002, and which are filed with the city clerk as Public Document No. 02-0624-14, are approved. This classification shall be subject to the city's collective bargaining unit with its supervisory employees; and that pay range for said classification shall be Range 1040-1050, \$3,494 to \$4,457 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 02-0404 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to purchase from the state of Minnesota the following-described tax forfeited parcels of property in the city of Duluth, county of St. Louis, state of Minnesota, for the sum of \$14,539.97; said sum to be payable from the Permanent Improvement Fund 0411-035-2165-5510: Lots 254 and 256, Block 32, DULUTH PROPER Second Division.

Resolution 02-0394 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to free convey to the city of Duluth the following tax forfeited parcels in the city of Duluth, St. Louis County, Minnesota, to be used for surface water drainage control in conjunction with the partnership project in Duluth Heights involving Billman Construction Company and Habitat for Humanity:

Lots 1-5, Block 14, and Lots 4-7, Block 15, Duluth Heights Sixth Division.

Resolution 02-0417 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

02-0624-15 to City Contract No. 19054 with the Regents of the University of Minnesota through the Minnesota sea grant program relating to the Duluth area natural resources inventory, extending the term of the agreement with no change in the contract amount.

Resolution 02-0405 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of West Second Street, a/k/a/ Traverse Street, between 44th Avenue West and 45th Avenue West, and legally described as follows:

that portion of the northeast quarter of Section 7, Township 49, Range 14, bounded as follows: on the east by the extended centerline of 44th Avenue West; on the west by the extended centerline of 45th Avenue West; on the north by the south line of Block 70, Oneota Addition; and on the south by the southerly right-of-way line of West Second Street, a/k/a Traverse Street; and

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

WHEREAS, the city planning commission unanimously approved the vacation petition at its June 11, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the street described above and as more particularly described on Public Document No. 02-0624-16.

RESOLVED FURTHER, that utility easements be retained over the areas lying 20 feet east of the centerline of 45th Avenue West extended and between the centerline of 44th Avenue West and a point 55 feet west of the centerline of 44th Avenue West.

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

Resolution 02-0408 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a utility easement legally described as the ten and 20-foot wide utility easement along the rear of lots in Block 1 and Block 2, Rearrangement of Aarons Valley, Block 1 and Block 2; 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 June 11, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

the vacation of the utility easement described above and as more particularly described on Public Document No. 02-0624-17.

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

Resolution 02-0409 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

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

southeast quarter of the northwest quarter (SE1/4, NW1/4) of Section 15, Township 50 North, Range 14 West of the Fourth Principal Meridian which lies within 33 feet on each side of the following described line:

beginning at a point on the centerline of Kenwood Avenue and 2022.07 feet south of the north line of Section 15, Township 50 North, Range 14 West of the Fourth Principal Meridian, thence westerly, perpendicular to said Kenwood Avenue for a distance of 400 feet 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 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 street vacation petition at its June 11, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the street easement described above and as more particularly described on Public Document No. 02-0624-18.

RESOLVED FURTHER, that an area measured 15 feet each side of the centerline of the right-of-way to be vacated and extending 50 feet west of the west right-of-way line of Kenwood Avenue be retained for a utility easement.

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

Resolution 02-0414 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a utility easement legally described as Lot 1, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

WHEREAS, the city planning commission unanimously approved of the vacation petition at its June 11, 2002, 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. 02-0624-19.

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

Resolution 02-0415 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

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. 02-0624-20 with Northstar Machine & Tool Company, Inc., d/b/a Northstar Aerospace (Northstar), in an amount not to exceed \$150,000, payable from Fund 0235 - Duluth recovery loan fund program.

Resolution 02-0416 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to submit a Workforce Investment Act and Older Americans Act plan amendment for the provision of workforce development services to the residents of the city of Duluth for fiscal year 2003 (July 1, 2002, through June 30, 2003). Said amendment modifies the five year plan for adult, dislocated worker and senior services to reflect the policy changes, services and activities changes, and annual allocation/budget. A copy of this plan will e on file in the city clerk's office as Public Document No. 02-0624-21. Revenue derived from the Workforce Investment Act adult and dislocated worker programs for the 2003 budget year will be deposited in Fund 0268. Revenue derived for the 2003 budget year from the Older Americans Act will be deposited in Fund 0271.

Resolution 02-0400 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

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. 02-0624-22 with the Minnesota department of trade and economic development to provide services under Title I of the Workforce Investment Act and Minnesota Statute 268 to dislocated workers. The duration of the contract is July 1, 2002, through June 30, 2004. Program funds will be accepted upon receipt of notices of funds available and shall be deposited to Fund 0268.

Resolution 02-0434 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with Independent School District No. 709 for the services of four teachers and one teaching assistant and work site coordination to at risk youth participating in the summer work experience program's academic enrichment component from June 10, 2002, through August 16, 2002, 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. 02-0624-23.

FURTHER RESOLVED, that costs incurred shall be charged to Fund 0268, budget items 6250, 6254, 6255 and 6256.

Resolution 02-0435 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a joint powers agreement between city of Duluth and state of Minnesota, pollution control agency, substantially in the form of and containing the terms of Public Document No. 02-0624-24 on file with the clerk for the remediation of the dump site at Sargent Creek, and to seek and receive grants to finance the remediation from the MPCA in the amount of \$60,000, and from Minnesota DNR in the amount of \$341,262; said money to be deposited in self insurance fund; and to pay for implementation costs that exceed the amount of grants received, if any, not to exceed \$300,000 from self insurance fund.

Resolution 02-0439 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Northwest Outlet be and hereby is awarded a contract for furnishing and delivering uniforms for the maintenance and utility operation divisions in accordance with specifications on its low specification bid of \$46,800, terms net 30, FOB destination, payable out of various funds, departments/agencies, organizations, objects.

Resolution 02-0294 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

BE IT RESOLVED, that the proper city officials are authorized to pay to Rodney Niemi and his attorney, Timothy A. Strom, the sum of \$33,000 in full settlement of all claims arising from a motor vehicle accident on July 2, 1997; payment to be made from the self insurance fund.

Resolution 02-0392 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Architectural Resources, Inc., for the sum of not to exceed \$7,840, from Fund 500, Agency 510, Organization 1955, Object 5401, for providing certain architectural services to the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

city of Duluth in connection with Lakewood pump station window and door replacement, 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. 02-0624-25.

Resolution 02-0398 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers hereby authorize Amendment No. 1 to Agreement No. 19064 with DSGW Architects for the sum of not to exceed \$21,260, from Utility Bond Construction Fund 0522, Agency 500, Object 5532 (Job No. OT-9620), for providing certain additional professional services to the city of Duluth in connection with the construction of a city utility maintenance facility, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 02-0624-26.

Resolution 02-0399 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that it is hereby deemed necessary for public convenience and safety, and it is hereby ordered pavement restoration for street utility excavations and the repair of sidewalks at various locations in the city of Duluth (City Job No. 0166TR).

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 \$476,000 payable from the Special Assessment Fund 0410, Agency 038, Organization 5355, Object 5530; that approximately \$150,000 of the cost of said improvements be defrayed by general obligation of the city, payable from the permanent improvement fund; that approximately \$25,000 be payable from the Sanitary Sewer Utility Fund 0530; that approximately \$200,000 be payable from the Water Utility Fund 0510; that approximately \$15,000 be payable from the Stormwater Utility Fund 0535; that approximately \$10,000 be payable from the Gas Utility Fund 0520; that approximately \$16,000 be payable from the CDBG Fund 262; that approximately \$20,000 be payable from the Capital Improvement Fund 0450 and that approximately \$40,000 of the cost of said improvement (sidewalk repairs) 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 five 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 02-0401 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Minnegasco, Inc., be and hereby is awarded a contract for furnishing and delivering 6,000 pounds of natural gas odorant for the utility operations division in accordance with specifications on its low specification bid of \$14,412.50, terms net 30, FOB destination, payable out of Gas Fund 0520, Department/Agency 500, Organization 1960, Object 5210.

Resolution 02-0419 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Approved June 24, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Bachand Painting and Decorating be and hereby is awarded a contract for painting of 2,732 gas meter piping throughout the city of Duluth for the utility operations division in accordance with specifications on its low specification bid of \$29,733.40, terms net 30, FOB job site, payable out of Gas Fund 0520, Department/Agency 500, Organization 1945, Object 5400.

Resolution 02-0420 was unanimously adopted.
Approved June 24, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the year 2003 street improvement program in Congdon Park; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction phases; 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 \$174,844, will be payable from the Street Improvement Program Fund 0440, Department/Agency 038, Organization 0301, Object 5530.

Resolution 02-0421 was unanimously adopted.
Approved June 24, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to complete engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the professional engineering services required to design and construction phases of year 2003 Denfeld; and

WHEREAS, R.L.K.-Kuusisto, Ltd., has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with R.L.K.-Kuusisto, Ltd., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$130,094, will be payable from the Street Improvement Program Fund 0440, Department/Agency 038, Organization 0302, Object 5530.

Resolution 02-0422 was unanimously adopted.
Approved June 24, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

WHEREAS, the city of Duluth desires to complete engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the professional engineering services required to design and construction phases of year 2003 Hunters Park East; and

WHEREAS, Krech, Ojard and Associates has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Krech, Ojard and Associates to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$81,479.50, will be payable from the Street Improvement Program Fund 0440, Department/Agency 038, Organization 0303, Object 5530.

Resolution 02-0423 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the year 2003 street improvement program in Ramsey South; and

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

WHEREAS, Salo Engineering, 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 \$75,288, will be payable from the Street Improvement Program Fund 0440, Department/Agency 038, Organization 0305, Object 5530.

Resolution 02-0424 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the year 2003 street improvement program in Woodland Upper Far West; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction phases; 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 \$176,995, will be payable from the Street Improvement Program Fund 0440, Department/Agency 038, Organization 0307, Object 5530.

Resolution 02-0425 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Approved June 24, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Hovland, Inc., be and hereby is awarded a contract for replacement of steam vault roof and rebuilding vault walls at Second Avenue West and Superior Street for the Duluth Steam Cooperative in accordance with specifications on its low specification bid of \$44,500, terms net 30, FOB job site, \$37,825 payable out of Steam District #1 Fund 0540, Dept./Agency 920, Organization 1460, Object 5310 and \$6,675 payable out of Steam District #1 Fund 0540, Department/Agency 920, Organization 1460, Object 5220.

Resolution 02-0426 was unanimously adopted.

Approved June 24, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0311 to Midway Contractors for construction of a six inch watermain replacement in Lakewood Road from East Superior Street to Bullitt Street, be amended to increase the amount by \$43,870 for a new total of \$192,165.75, payable out of payable out of Water Construction Bond Fund 0511, Department/Agency 500, Object 5532.

Resolution 02-0427 was unanimously adopted.

Approved June 24, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Duluth Superior Blacktop be and hereby is awarded a contract for furnishing and delivering 3,500 tons of bituminous materials for the maintenance operations division in accordance with specifications on its low specification bid for a total of \$107,831.50, terms net 30, FOB picked up, payable out of General Fund 0100, Department/Agency 500, Organization 2000 and Object 5232.

Resolution 02-0436 was unanimously adopted.

Approved June 24, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the city is hereby authorized to accept grant monies of not to exceed \$40,900 from the U.S. department of justice, bureau of justice assistance, for bulletproof vest reimbursement during the grant period from March 1, 2002, through September 30, 2006.

FURTHER RESOLVED, that the proper city officers are authorized to execute such agreements as necessary to implement the project on behalf of the Duluth police department. All revenues received under this grant shall be deposited in General Fund 0100, Agency 200, Org. 1620, Revenue Source 4210.

Resolution 02-0395 was unanimously adopted.

Approved June 24, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that Ray O'Herron Company be and hereby is awarded a contract for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

furnishing and delivering tactical body armor for the police department in accordance with specifications on its low specification bid of \$27,945, terms net, FOB destination, \$14,606 payable out of General Fund 0100, Dept./Agency 200, Organization 2431, Object 5241 and \$13,339 payable out of General Fund 0100, Dept./Agency 200, Organization 2432, Object 5241.

Resolution 02-0437 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Conservation Technologies, said agreement filed with the city clerk as Public Document No. 02-0624-27, for the installation of eight photovoltaic cells on the roof of the main library building for an estimated consideration of \$24,000 to be paid from Fund 0100, Agency 015, Org. 2500, Object 5319.

Resolution 02-0433 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0406, upholding, and Resolution 02-0407, overturning, respectively, an action of the Downtown Waterfront Mixed Use-Design Review District technical design advisory committee and directing issuance of a certificate of appropriateness to Stanley Henricksen, et al., for a vending exhibit of Duluth Electric Streetcar Restoration for the Canal Park Inn property located at 250 Canal Park Drive, by Councilor Stauber, were introduced for consideration.

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

Stanley Hendrickson urged the council to overturn the action of the committee.

Councilor Stewart stated that there is too much clutter on the Lakewalk and that visitors want to see the lake. He added that the city should find another place to put the streetcar.

Resolutions 02-0407 was adopted as follows:

BY COUNCILOR STAUBER:

WHEREAS, Stanley R. Henricksen, on behalf of Duluth Electric Streetcar Restoration (Joe Martin, Jr., Dwane Henricksen and Stanley Henricksen), has appealed to the city council the DWMX-D technical design review committee's decision not to issue a certificate of appropriateness for a vending exhibit of the Duluth Electric Streetcar Restoration on the Canal Park Inn property located at 250 Canal Park Drive and described as Lots 28 and 29, Industrial Division of Duluth, Blocks 1 and 2; and

WHEREAS, the city council physical development committee held a committee hearing on May 28, 2002, to consider this appeal and has determined that with appropriate conditions, the appellant can meet the requirements for a certificate of appropriateness in accordance with Article XXIV, of the Duluth City Code; and

NOW, THEREFORE BE IT RESOLVED, by the city council of the city of Duluth, that the decision of the DWMX-D technical design advisory committee is overruled and that the city planning division staff is ordered to issue a certificate of appropriateness to Duluth Electric Streetcar Restoration (Joe Martin, Jr., Dwane Henricksen and Stanley Henricksen) and subject to the following conditions:

The conditions of the certificate of appropriateness shall be:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

(a) The placement of the streetcar is subject to the prior written approval by the acting secretary of the DWMX-D technical design review committee of:

(1) The faux painting of the trucks and rails which are to skirt the undercarriage of the streetcar, in a manner as represented in the photo (Exhibit A), identified as Public Document No. 02-0624-28;

(2) The sign which shall be removed seasonally with the streetcar, shall not exceed 15 square feet and shall obtain a separate sign permit under Chapter 44 of the City Code;

(3) A drawing showing the size (a minimum of 30 inches in height), type, location and method of plantings (either in the ground or potted) around the towing tongue of the streetcar;

(4) The wood stair and railing to the left front door of the streetcar shall be painted to match the body of the streetcar;

(b) The placement of the unit as shown on Exhibit B, identified as Public Document No. 02-0624-28, shall be in its summer display location from May 15 to October 15 each year and in its winter storage area between October 15 and May 15 each year;

(c) The term of the certificate of appropriateness shall expire on October 15, 2003, at which time renewal of the certificate may be requested.

Resolution 02-0407 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Hogg, Stover and President Ness -- 5

Nays: Councilors Stauber and Stewart -- 2

Absent: Councilors Bergson and Stenberg -- 2

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0406 was withdrawn from the agenda upon a unanimous vote.

- - -

Resolution 02-0403, by President Ness, establishing the city's support for state and federal action to reduce prescription drug prices, was introduced for discussion.

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

The following speakers urged support of the resolution for the following reasons: Glenn Anderson, Bruce Lotti, Alan Netland, Irene Holcomb, Sister Rita Schwalbe, Jean Beattie, Carl Merrick — this resolution addresses a very important issue; the legislators have not pursued this issue at the state level and do not anticipate Congress doing anything on the issue in the near future; insurance rates, deductibles and co pays are going up; price gouging by the drug companies affects everyone and by lowering the cost of drug insurance it would allow people to buy the drugs that they need; even if drug companies reduce drugs by 40 percent, they will still turn a profit and there has been a steady increase of under-insured people over the years.

President Ness moved to amend the resolution by:

(a) Deleting the phrase "(SF 765)" from paragraph four;

(b) Adding the following paragraph to the end:

"FURTHER RESOLVED, that by this resolution the council places this matter on the council's priority list for the 2003 legislative session," which motion was seconded and unanimously carried.

Resolution 02-0403 was adopted as follows:

BY PRESIDENT NESS:

WHEREAS, the rapidly escalating cost of prescription drugs is a significant problem for the well being of many Duluth citizens; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

WHEREAS, the continual increase in prescription drug prices is driving up the cost of health insurance, which is a significant burden for all Duluth citizens, businesses and government; and WHEREAS, the council wishes to express a clear desire for legislative action on this issue in the 2003 legislative session.

NOW, THEREFORE, BE IT RESOLVED, that the council urges the Minnesota legislature to pass the Fair Drug Pricing Act, which will reduce the retail price of prescription drugs for uninsured Minnesotans by means of rebate payments obtained from the drug manufacturers.

FURTHER RESOLVED, that the council urges the Minnesota legislature to enact wholesale price reductions on all prescription drugs purchased in Minnesota, to bring the price down to levels comparable to the veterans administration or Canadian prices.

FURTHER RESOLVED, that the council urge the United States Congress to enact significant national wholesale price reductions for prescription drugs.

FURTHER RESOLVED, that by this resolution the council places this matter on the council's priority list for the 2003 legislative session.

Resolution 02-0403, as amended, was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS AND COUNCILOR STAUBER:

WHEREAS, the city council of the city of Duluth hereby recognizes the importance of accurate timely communication from government to the people it represents; and

WHEREAS, the city council acknowledges that technology has affected all aspects of daily life and especially notes that, besides traditional means of communication, new additional forms of communication can be made available to better serve the public, the media and themselves in their responsibility to function in the most efficient manner possible.

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth hereby makes a commitment to proceed to effectively utilize technology and thus supports implementation of the items stated in the paper reduction memo (Public Document No. 02-0624-29).

FURTHER RESOLVED, that the city council approves the expenditure of funds to implement a electronic citywide calendar not to exceed \$7,000, payable from Fund 0100, Agency 010, Organization 1101, Object 5201.

Resolution 02-0440 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0432, by Councilor Stover, authorizing execution of an agreement for management services with the Duluth Steam Cooperative Association, was introduced for discussion.

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

- - -

BY COUNCILOR STOVER:

BE IT RESOLVED, that under authority of the Charter and Section 2-18 of the City Code, the proper city officials are authorized and directed to transfer a total amount of \$71,060, in the amounts and from the funds shown in the table below, to the Municipal Arts Fund 0745 for the purpose of establishing public art in the Clayton-Jackson-McGhie memorial; said amount not to exceed the one percent art set aside payment set out in Section 2-19 of the City Code, and should

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

any part of the amount not be used for said memorial or be found to exceed the amount calculated as set out in Section 2-19, it shall be returned to the fund from which it came:

- \$16,570 Water Utility Fund 0510-500-1915-5490
- \$20,890 Gas Utility Fund 0520-500-1915-5490
- \$19,635 Sewer Utility Fund 0530-500-1915-5490
- \$13,965 Stormwater Utility Fund 0535-500-1915-5490

Resolution 02-0438 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, communities across the United States have designated August 6, 2002, 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 6, 2002, 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 02-0396 was unanimously adopted.

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance were read for the first time:

BY COUNCILOR HOGG

02-021 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,745,000 GENERAL OBLIGATION WATER UTILITY REVENUE BONDS OF THE CITY OF DULUTH FOR THE PUBLIC FACILITIES PROJECT UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

BY COUNCILOR HOGG

02-022 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,470,000 GENERAL OBLIGATION STORMWATER UTILITY REVENUE BONDS OF THE CITY OF DULUTH FOR THE PUBLIC FACILITIES PROJECT UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

BY COUNCILOR HOGG

02-023 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$2,065,000 GENERAL OBLIGATION SEWER UTILITY REVENUE BONDS OF THE CITY OF DULUTH FOR THE PUBLIC FACILITIES PROJECT UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

BY COUNCILOR HOGG

02-024 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$2,200,000 GENERAL OBLIGATION GAS UTILITY REVENUE BONDS OF THE CITY OF DULUTH FOR THE PUBLIC FACILITIES PROJECT UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

BY COUNCILOR STENBERG

02-020 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 3 AND 4 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-C SINGLE FAMILY RESIDENTIAL TO R-1-A SINGLE FAMILY RESIDENTIAL, PROPERTY LOCATED IN THE FOND DU LAC NEIGHBORHOOD.

- - -

BY COUNCILOR STENBERG

02-025 - AN ORDINANCE GRANTING TO DALE R. AND PATRICIA A. SUNDIN PERMISSION TO OCCUPY, CONSTRUCT AND MAINTAIN A TWO CAR GARAGE IN THE RIGHT-OF-WAY OF JOSHUA AVENUE ADJACENT TO 1121 REDBUD STREET.

- - -

BY COUNCILOR STOVER

02-026 - AN ORDINANCE AMENDING ORDINANCE NO. 8854 AUTHORIZING SALE OF CERTAIN PROPERTY TO REHL CORPORATION.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STEWART

02-015 (9537, 9538, 9539) - AN ORDINANCE AMENDING CITY CODE SECTION 45-4.1 AND ADDING NEW SECTIONS 45-4.4 AND 45-4.5, CREATING MASS TRANSIT ZONES AND PEDESTRIAN TRANSIT ZONES.

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

The following speakers opposed the ordinance for the following reasons: Elsie Robinson, John Holmes, Michaela Morrow, Bruce Lotti, Soren Larsen-Ravenfeather, Jessie Sawyer, K L Lewis, Elijah, Joel Sipress, Paul King, William Jahnke, Doug Happy, Brian Fuchsa and Jeremiah Brown — this ordinance will only push the problem out from the Downtown area; current laws should be enforced to take care of the problems now instead of discriminating against a certain type of people; invest money into a community center for the young people to congregate in; does this ordinance benefit just the Downtown businesses; this ordinance could be used to prevent lawful assemblies; this is not a solution to the problem and it will promote an attitude of fear that will divide the community; the young adults are abused at home and when they come Downtown they are abused by the police; get the young adults and the business owners together for them to know each other; young people are always taking the blame for anything that goes wrong; this ordinance authorizes no loitering zones and sets no criteria for setting those zones as

it is upon the discretion of the planning commission and city council and this does not outlaw bad behavior.

The following speakers supported the ordinance for the following reasons: Kristi Stokes, Bruce Stender, David Ross, R. Sande, Roger Wedin, Sandy Hoff, Harold Frederick, Paula Sapin, Steve LaFlamme, Ed Barbo — this ordinance is aimed to provide the public safe transport on the streets to the businesses and the mass transit system; business owners and the general public have the right to walk the sidewalk without being harassed; this is about safety and security while walking the Downtown streets, not about age, race, social status or looks; it is about behavior affecting the Downtown community which will be venturing into new promotions this year; this ordinance is just a beginning and a move to implement other recommendations of the Greater Downtown Council and the mayor's task force to implement the vision of creating a vibrant Downtown; a safe and convenient to mass transit system is needed; this is a tool to work for the police department; it is a way to correct behavior that is damaging to the businesses Downtown; inappropriate behavior affects businesses; it is not a constitutional right for three to four people to hang out in front of a building and interfere with the public's safe passage into a building; current laws do not allow the police to correct the behavior; most of the businesses are family owned and provide living wages for families; the Downtown is trying to maintain businesses to employ people; there are millions of dollars spent by conventions in town and the city needs to have safe passage for these people through the stores and streets to hotels and welcome the youth to stay Downtown by giving them a place to go.

Councilor Stewart moved to amend the ordinance as follows:

- (a) In Section 45-4.4, first sentence, after the phrase "the city council may, by resolution" insert the words "passed after a public hearing";
- (b) In Section 45-4.5, second paragraph, delete "\$50" and insert "\$100";
- (c) In Section 45-4.5, after the third sentence, add the following sentence:
"The city council shall promptly, after proper public notice is given, conduct a public hearing on each resolution to establish a zone and shall act on the matter after the hearing," which motion was seconded and unanimously carried

Councilor Stewart moved to further amend the ordinance by adding subsection (e) to Section 45-4.5, sixth paragraph, to read as follows:

"(e) Conduct legal picketing by members of an employee organization or member of an organization engaging in organizational pickets in a manner consistent with all laws, regulations, and valid court orders, and in a manner that does not obstruct pedestrian travel, nor pedestrian access to abutting properties," which motion was seconded and unanimously carried.

President Ness moved to split the ordinance, as amended, into three different ordinances to consider sections 45-4.1, 54-4.4 and 45-4.5, individually, which motion was seconded and carried as follows:

Yeas: Councilors Atkins, Gilbert, Stewart, Stover and President Ness -- 5

Nays: Councilors Hogg and Stauber -- 2

Absent: Councilors Bergson and Stenberg -- 2

Mayor Doty spoke in favor of the ordinance as a tool for the city and businesses to keep downtown Duluth strong and vital.

President Ness moved the passage of Ordinance 02-015(a), Section 45-4.1, and the same was adopted upon a unanimous vote.

- - -

President Ness moved the passage of Ordinance 02-015(b), Section 45-4.4, as amended, and the same was adopted upon a unanimous vote.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

- - -

Regarding Ordinance 02-015(c), Section 45-4.5, Councilor Stover and President Ness stated that they could not support the ordinance because: it is too much like segregation; the problem will only shift elsewhere; this is not the answer or a good law; the problems are cited and there is a need to address the problems, but this plan is wrong; the concept is equal protection under the law, but it will not be enforced equally across the board; it does not address specifically what is causing the problems; there should be enforcement of laws that are currently in the books and it is ambiguous and only outlaws standing in particular areas, not the bad behavior.

Ordinance 02-015(c), Section 45-4.5, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Hogg, Stauber and Stewart -- 5

Nays: Councilor Stover and President Ness -- 2

Absent: Councilors Bergson and Stenberg -- 2

- - -

At this time, 10:55 p.m., Councilor Stewart moved to suspend the rules to extend meeting to 11:15 p.m., which motion was seconded and unanimously carried.

- - -

BY PRESIDENT NESS (INTRODUCED BY COUNCILOR STENBERG)

02-017 (9540) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 5 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-2 TWO FAMILY RESIDENTIAL TO C-1 COMMERCIAL PROPERTY LOCATED AT 1602 COMMONWEALTH AVENUE (CLARK/BOBEN).

President Ness moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

BY PRESIDENT NESS

02-019 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF AN EASEMENT FOR HIGHWAY PURPOSES IN CERTAIN UNUSED LAND IN ENGER PARK TO THE STATE OF MINNESOTA FOR A CONSIDERATION OF \$27,500.

President Ness moved to table the ordinance because there is a state requirement that eight councilors must be present to vote for the selling of park property, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR STOVER

02-018 (9541) - AN ORDINANCE AUTHORIZING CONVEYANCE TO ST. LOUIS COUNTY OF PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR HIGHWAY PURPOSES FOR RECONSTRUCTION OF COUNTY STATE AID HIGHWAY 17 (STEBNER ROAD).

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

- - -

The meeting was adjourned at 11:05 p.m.

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

- - -

ORDINANCE NO. 9537

BY COUNCILOR STEWART:

AN ORDINANCE AMENDING CITY CODE SECTION 45-4.1.

The city of Duluth does ordain:

Section 1. That Section 45-4.1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 45-4.1. Same--Generally permitted.

The city council may, by resolution, authorize the placement of objects or materials on public sidewalks or boulevard areas in cases where the council finds that such objects or materials will not substantially interfere with pedestrian traffic and that the placement of such objects or materials is beneficial to the public welfare. Prior to passage of any such resolution, with the exception of resolutions relating to objects or materials needed in connection with essential public services, the council shall refer the matter to the planning commission for its review and recommendations. In making its review, the planning commission shall, among other things, consider the comments and recommendations of the director of public service.

Prior to passage of any resolution authorizing a private person or organization to place objects or materials on public sidewalks or boulevard areas, such person or organization shall place on file with the city clerk a certificate of insurance approved as to form by the city attorney evidencing that such person or organization has in force insurance in the minimum amounts equal to the limits of liability for municipalities set out in Minnesota Laws, Chapter 466, or its successor, as may be amended from time to time, in any one year protecting such person or organization and the city of Duluth against liability for injuries or damages resulting from the placement of such objects or materials on public sidewalks or boulevard areas. The permission granted by such resolution shall be conditioned upon such person or organization continuing to supply the city with evidence that such insurance remains in effect and all insurance required herein shall contain a provision that no policy may be canceled until ten days after written notice is given to the city clerk. Such policy shall name the city as an additional insured.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: August 4, 2002)

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

Yeas: Councilors Atkins, Gilbert, Hogg, Stauber, Stewart, Stover and President Ness -- 7

Nays: None -- 0

Absent: Councilors Bergson and Stenberg -- 2

ATTEST:

JEFFREY J. COX, City Clerk

Passed June 24, 2002

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9538

BY COUNCILOR STEWART:

AN ORDINANCE ADDING A NEW SECTION 45-4.4, CREATING
MASS TRANSIT ZONES.

The city of Duluth does ordain:

Section 2. That a new Section 45-4.4 be added to the Duluth City Code, 1959, as amended, to read as follows:

Sec. 45-4.4. Mass transit zones.

Upon application delivered to the city clerk from any citizen or provider of public mass transportation, except a taxi service, the city council may, by resolution passed after a public hearing, establish any number of mass transit zones. Each zone shall be located upon property owned or controlled by the city. Each zone shall be specifically described in a resolution of the council, either by words or by graphic display. A mass transit zone shall be finally established when the applicant complies with insurance and indemnity requirements set out below, or reasonable alternatives approved by the council, and the resolution establishing it has been passed by the city council. Each zone shall terminate after 50 years, or when the zone is terminated by resolution of the city council, whichever occurs first. Each zone shall be configured so that the public has safe and convenient access to mass transit and also has convenient passage around the zone for those who are not transit customers.

Once established, the mass transit zone shall be used only by customers of a mass transit provider and only for the following purposes:

- (a) Entering or exiting a mass transit vehicle;
- (b) Waiting for the arrival of a mass transit vehicle;
- (c) Conducting business with a mass transit provider;
- (d) Maintaining the property or equipment of the city or a mass transit provider.

Persons who are not, at the time present in the zone, customers of a mass transit provider, or persons who are not in the zone for one of the four purposes set out above, shall not be allowed in the mass transit zone.

Each zone shall be large enough to accommodate the business needs of mass transit customers. Each shall be configured so that pedestrians who are not customers can safely travel to, from, and around the zone.

The mass transit provider shall mark the boundaries of each zone by a reasonable means that advises the public of the existence of the zone.

The mass transit provider shall have authority to control the use and activities in a mass transit zone to the extent necessary to assure that the public has safe and convenient access to mass transit, except that city agents may enter to enforce the law, maintain the area, provide for public safety, or respond to emergencies.

The mass transit provider shall use each mass transit zone in compliance with all applicable laws and regulations.

The mass transit provider shall execute reasonable agreements to indemnify and defend the city and hold it harmless, up to its limits of liability, for claims against the city caused by the transit provider's fault in using a mass transit zone, and shall insure the city against such claims or losses.

Any person who violates this ordinance may be punished as set out in Duluth City Code, Section 1-7, or its successor.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage

and publication. (Effective date: August 4, 2002)

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

Yeas: Councilors Atkins, Gilbert, Hogg, Stauber, Stewart, Stover and President Ness -- 7

Nays: None -- 0

Absent: Councilors Bergson and Stenberg -- 2

ATTEST:

JEFFREY J. COX, City Clerk

Passed June 24, 2002

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9539

BY COUNCILOR STEWART:

AN ORDINANCE ADDING A NEW SECTION 45-4.5, CREATING
PEDESTRIAN TRANSIT ZONES.

The city of Duluth does ordain:

Section 3. That a new Section 45-4.5 be added to the Duluth City Code, 1959, as amended, to read as follows:

Sec. 45-4.5. Pedestrian transit zone.

The city council finds that it is to the public's benefit to provide for safe, convenient, and efficient pedestrian travel around and upon the public lands and easements of the city. In some areas of the city, pedestrian travel and safety is unreasonably inhibited by persons stopping upon the public ways, or committing crimes, or conducting private business, or soliciting the public, or doing other activities which are not pedestrian travel. Accordingly, the city council is authorized to, by resolution, establish a pedestrian transit zone in any place in the city owned or controlled by the city where such a zone will help eliminate obstructions to safe and convenient pedestrian travel, or will further the public safety, peace, or welfare.

Establishment of a pedestrian transit zone shall commence with the filing of an application, on a form approved by the city, with the city planning department. Each application for each zone shall be processed when the city receives from the applicant the required application fee of \$100. The application shall state the experiences or circumstances which are a basis for the establishment of a pedestrian transit zone and the proposed location of the zone.

The planning department shall, after consideration, either approve or deny the application, or the application as amended, stating, in writing, its reasons therefore, and notifying the applicant. In the case of a denial, the applicant may appeal to the city council by filing with the city clerk a written notice of appeal within 15 days of the date the notice of denial was sent to the applicant. In the case of approval, the planning department shall promptly request the city council to establish the pedestrian transit zone, and shall prepare a resolution for that purpose. The city council shall promptly, after proper public notice is given, conduct a public hearing on each appeal and on each resolution to establish a zone, and shall act on the matter after the hearing. The zone is established when the enabling resolution becomes effective. The zone shall remain in existence so long as the applicant, or the applicant's successor in interest, pays the annual renewal fee of \$25, and the city council has not, by resolution, terminated the zone.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

A pedestrian transit zone may be located on any sidewalk, path, skywalk, way, trail, parkway or other property owned or controlled by the city.

A pedestrian transit zone shall be configured so as to allow the efficient, safe, pleasant and convenient travel of pedestrians in the area. It shall be large enough to accommodate the expected traffic volume. It shall not, in areas which are public fora for free speech, be configured so as to leave no reasonable method for the exercise of constitutional rights, although, it may be configured so that the location of such exercise is reasonably moved or regulated, as provided by law. It shall be configured so that pedestrians who wish to stop or linger may do so within a reasonable distance from the zone or the ends of the zone.

The activities allowed in a pedestrian transit zone are the following and no others are allowed:

- (a) Traveling from one point to another, as evidenced by constant movement through the zone to a point or points outside the zone (frequent, repetitive movement within the zone, back and forth, is not allowed);
- (b) Law enforcement activities;
- (c) Maintenance activities by the city's agents;
- (d) Safety and emergency response activities;
- (e) Conduct legal picketing by members of an employee organization or member of an organization engaging in organizational pickets in a manner consistent with all laws, regulations, and valid court orders, and in a manner that does not obstruct pedestrian travel, nor pedestrian access to abutting properties.

The boundaries of the zone shall be indicated to the public in a reasonable manner.

Any person who is present in a pedestrian traffic zone and carries out activities inconsistent with the uses allowed by this Section is in violation of the ordinance and may be punished as set out in Duluth City Code, Section 1-7, or its successor.

Any person who interferes with pedestrian traffic in a pedestrian traffic zone, or obstructs it, or hinders the zone's availability for use by transiting pedestrians is in violation of this ordinance, and may be punished as set out in Duluth City Code, Section 1-7, or its successor.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: August 4, 2002)

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

Yeas: Councilors Atkins, Gilbert, Hogg, Stauber and Stewart -- 5

Nays: Councilor Stover and President Ness -- 2

Absent: Councilors Bergson and Stenberg -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 24, 2002
Approved June 24, 2002
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9540

BY PRESIDENT NESS (Introduced by Councilor Stenberg):

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 5 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

FROM R-2 TWO FAMILY RESIDENTIAL TO C-1 COMMERCIAL PROPERTY
LOCATED AT 1602 COMMONWEALTH AVENUE (CLARK/BOBEN).

The city of Duluth does ordain:

Section 1. That Plate No. 5 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

[MAP]

[see page at end of meeting]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 11, 2002)

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

Yeas: Councilors Atkins, Gilbert, Hogg, Stauber, Stewart, Stover and President Ness -- 7

Nays: None -- 0

Absent: Councilors Bergson and Stenberg -- 2

ATTEST:

JEFFREY J. COX, City Clerk

Passed June 24, 2002

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9541

BY COUNCILOR STOVER:

AN ORDINANCE AUTHORIZING CONVEYANCE TO ST. LOUIS
COUNTY OF PERMANENT EASEMENTS AND TEMPORARY
CONSTRUCTION EASEMENTS FOR HIGHWAY PURPOSES FOR
RECONSTRUCTION OF COUNTY STATE AID HIGHWAY 17
(STEBNER ROAD).

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby grants and conveys permanent easements and temporary construction easements for highway purposes to the county of St. Louis County, substantially in the form of those on file in the office of the city clerk as Public Document No. 02-0624-30, over the real property in St. Louis County, Minnesota as described in Exhibit A for reconstruction of County State Aid Highway 17 (Stebner Road).

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 4, 2002)

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

Yeas: Councilors Atkins, Gilbert, Hogg, Stauber, Stewart, Stover and President Ness -- 7

Nays: None -- 0

Absent: Councilors Bergson and Stenberg -- 2

ATTEST:

JEFFREY J. COX, City Clerk

Passed June 24, 2002

Approved June 24, 2002

GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 8, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0708-01 Snowflake Nordic Cross Country Center submitting petition to rezone from S to R-3 property described as that part of the south half of Section 8, Township 50, Range 14, beginning at the northeast corner of northeast quarter of southeast quarter, thence south 658.24 feet, thence west 61.61 feet, thence in a southwesterly direction 817.82 feet to center of Rice Lake Road (County Highway No. 4), thence northwesterly along centerline of highway 2003.78 feet to north line of south half of southeast quarter, thence east along north line of south half of southeast quarter to point of beginning. -- Assessor

02-0708-02 Todd Lind, et al. (ten signatures), submitting petition to vacate the alley between Blocks 9 and 10, Bayview Addition Number One. -- Assessor

02-0708-03 Minnesota state auditor submitting Duluth state convention center administrative board (Duluth Entertainment Convention Center authority) audit report for the years ended December 31, 2000 and 2001. -- Received

02-0708-04 Lake Superior Center d/b/a/ Great Lakes Aquarium at Lake Superior Center submitting financial report of December 31, 2001, by McGladrey & Pullen, LLP. -- Received

02-0708-05 Minnesota Civil Liberties Union submitting communication regarding passage of ordinances establishing pedestrian and mass transit zones (Ordinance Nos. 9537, 9538, 9539). -- Received

02-0708-06 St. Louis County Heritage and Arts Center submitting applications for facilities rental during which alcoholic beverages will be served from:

- (a) Nell Herbert and Lance Rhicard on July 27, 2002;
- (b) Amy Johnson on July 13, 2002;
- (c) Jeffrey Lahti and Rita Sparks on July 20, 2002. -- Received

02-0708-14 The following submitting communications regarding the work permits for a proposed golf course at the Spirit Mountain recreation area (02-0343R, 02-0344R, 02-0393R):

- (a) Mike Armstrong;
- (b) Bad River Band of Lake Superior Tribe of Chippewa Indians;
- (c) Joyce Blodgett;
- (d) Mark Brown;
- (e) Lori Collard;
- (f) Eric Dings;
- (g) Julia K. Dinsmore;
- (h) Jim Fetzer;
- (i) Fond du Lac Reservation business committee;
- (j) Jim Gearns;
- (k) Hovland Spirit Ridge, LLC, by William Burns, attorney;
- (l) Christopher F. James;
- (m) K.L. Lewis;
- (n) Audrey and Milton Monicken;
- (o) Carole Ruikka;
- (p) Mike Seyfer;
- (q) Ray Spellerberg (supported by five signatures);
- (r) Marion Syrjamaki-Kuchta;
- (s) Tracey Tellor. -- Received

- - -

REPORTS OF OFFICERS

02-0708-07 Assessor submitting:

(a) Assessment roll to be levied to defray in full the expense of solid waste collection during the period March 1, 2001, to June 1, 2002, for which the collector has not been reimbursed;

(b) Letters of sufficiency of petitions to:

- (1) Reclassify from S to R-1-a the Plat of Greenbriar Hills located in Section 9, Township 50, Range 14, less Block 3, Lot 1;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

(2) Reclassify from S to R-3 property described as that part of the south half of Section 8, Township 50, Range 14, beginning at the northeast corner of northeast quarter of southeast quarter, thence south 658.24 feet, thence west 61.61 feet, thence in a southwesterly direction 817.82 feet to center of Rice Lake Road (County Highway No. 4), thence northwesterly along centerline of highway 2003.78 feet to north line of south half of southeast quarter, thence east along north line of south half of southeast quarter to point of beginning;

(3) Vacate Greenbriar Hills located in Section 9, Township 50, Range 14; less Block 3, Lot 1;

(4) Vacate alley between Blocks 9 and 10, Bayview Addition Number One.

-- Received

02-0708-08 Community development and housing division manager submitting the HRA report of the HUD CD funded housing rehabilitation program for April 2002. -- Received

02-0708-09 Purchasing agent submitting emergency order to Associated Bank of Red Wing, Minnesota, for a lease/purchase of fairway mowers, greens mowers and turf maintenance equipment. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-0708-10 Civil service board minutes of May 15, 2002, meeting. -- Received

02-0708-11 Duluth airport authority: (a) Balance sheet of April 30, 2002; (b) Minutes of May 21, 2002, meeting. -- Received

02-0708-12 Duluth/North Shore sanitary district board minutes of June 4, 2002, meeting. -- Received

02-0708-13 Duluth transit authority: (a) Financial statement for April 2002; (b) Minutes of April 24, 2002, meeting. -- Received

Duluth City Council meeting held on Monday, July 8, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Eric Dings commented on aspects of LAWCON requirements and possible state of Minnesota responsibilities at the time Spirit Mountain villas were developed.

- - -

Kay L. Lewis commented on: the proposed skateboard park, downtown tree replacement, the Lakewalk, the loitering ordinance and promotion of Spirit Mountain.

- - -

Elijah commented on: right turns on red lights and that there are individuals that have the intention to remove all youth from the downtown area.

- - -

Sally Larson and Ken Steil commented that the foghorn: interferes with normal conversation; rattles windows on houses; prevents individuals who work at night, and need to rest during the day, from getting a good night's rest to function properly at their jobs; is similar to allowing loud parties or barking dogs at night; if blowing now, would be a serious impediment to conducting city council business; is blown too frequently and is too loud. They requested that the contract for operation for the aid to navigation be given back to the coast guard.

- - -

RESOLUTIONS TABLED

Councilors Stewart and Stenberg moved to remove Resolutions 02-0343, denying work permit application of Spirit Ridge, LLC, related to Spirit Ridge project; and 02-0344, granting a work permit to Spirit Ridge, LLC, for construction of a lodge and an 18 hole golf course at Spirit Mountain, from the table, which motion was seconded and carried.

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

The following individuals spoke in favor of Resolution 02-0343: Heather Fadness; Reverend Jerry Pollard; David Manuel; Kay L. Lewis; Vickie Sanville; Andrew P. Young; John Gordon; Karen Johnson; Tom Koehler; Jim Fetzer; C. J. Bird; Greg Price; Cathy Podeszna, President of Duluth Audubon Society; Lynn Olson, on behalf of the Isacke Walton League; Brian Frederickson, chair of Duluth environmental advisory council; Terry Brown; Linda Wolz; Karen Koplin; Vince Senski; Maskoa Benay; Lynn Froseth; Doug Happy; Christina Wagner; Kaia DeShane; Nancy Nelson; Alberta Fairbanks; Warner Wirta; Tim Spriggs; Jeff Loudermilk; Marsh Stenersen; Peggy Marrin; Sharon Kuttley; Ellen Shownfeldt; Debra Kirtpatrick; Ed Kale; Joan Leopold; Elizabeth Jaukula; Kristine Osbakken; Roger Reinert; Tony LaDoux; William Bird; and Andrew Frick.

Reasons for opposing the resolution were as follows: one would not allow a golf course to come into a church, mosca or synagod, therefore this sacred ground of the native Americans should also be left alone; there is a viable alternative in Gary-New Duluth, at the old U.S Steel site, that has federal funding available; respect for the native Americans is the most important issue here; the native American traditions are still being taught at this sight; a deeper environmental impact study is needed; there needs to be a full survey done of grave sites on the property; an alternative is that there could be a master crafted "putting green" on the existing cleared grounds; left as is, this area will create more economic prosperity than a golf course; this area should be kept for public recreation as was intended when it was created; there are already plenty of existing golf courses in the immediate area, some of which are not doing so well financially; the existing forest makes Duluth a unique and special place; the project will cause damage to plants, wildlife and streams; the project violates the terms of trust that originally created the site; most Duluthians want green space over development at this site; the Fond du Lac tribe has not been contacted on this issue; the Freedom of Religion Act does not allow this project at this location; the native Americans did not have the rights that they currently have back in 1974; the Minnesota departments of fishery, forestry and non game wild life oppose this project; golf course chemicals will pollute a huge amount of pure water by the subsequent runoff into the creeks and lake; this location is of high importance as a site that needs to be protected, because it is one of the top spots for migrating rafters and bald eagles; the project, as is it stands now, violates the tenants of the federal land and water conservation funds; the Duluth environmental advisory council does not recommend approval of these work permits, given how various issues were not fully addressed; the work permit issue has been previously addressed by the council and denied; this is a matter of the culture of the native Americans and no amount of money should override that; this project will only create low income paying jobs, if allowed; this is a matter that should be put to the whole community to vote upon; the project violates the Lawcon grant restrictions; the master plan needs to be changed; the old growth hard wood forest needs to be protected; there needs to be an open public forum to help create a new vision for the Spirit Mountain recreation area; the Bad River Tribe of Chippewa Council opposes any further development on Spirit Mountain; the economic conditions of 1973 are not an appropriate argument today; there needs to be a moratorium on the issuance of work permits for two to three years until the comprehensive plan is completed; many citizens do not feel that they have been heard on major issues before the city;

golf is only a game, it should not take precedence over the sacredness of that land and the amount of the rent that is received from this land, is a very small amount for the size of the area.

The following individuals spoke in favor of Resolution 02-0344: David Ross, Director of the Duluth Chamber of Commerce; Robert N. Johnson; Tess Dandrea; Mary Schlosser; Eric Kaiser; Dennis Monson; Chris James; Dale Lewis; Robin Teller; Jim Wheeler; Deede Westermann; Huck Andresen; Sid Mason; Wayne Brandt; Briana Schaub, Jeanne Koneczny; and Todd Fedora.

Reasons given in support of the resolution were as follows: the development will enrich community with other opportunities for employment during construction and when it is opened; it will increase the tax base for city and school district services; it provides needed investment in a community treasure; the project has solid private financing; these changes will help the environment; the developers have gone beyond what was required of them in making changes; the original 1973 objectives in the enabling legislation for Spirit Mountain were the development of a wide range of recreational facilities to aid in the economy of Northern Minnesota by encouraging private enterprise efforts in conjunction with four season recreational facilities, and to preserve the environment in the area with a timely and intelligent plan of development; the lands will always remain public; 77 percent of the landscape and vegetation will remain untouched; this kind of development is crucial to the long term success in making Spirit Mountain self-sufficient; the dead growth on the mountain could create a huge fire; the master plan that allows this project was approved by a prior city council; the difficulty of having development proceed is one more reason not to live here; Spirit Mountain is almost 28 years old and needs substantial renovation and capital improvements that could be funded from revenues resulting from this project; the hotel will be an asset that can be used by skiers also; if the developers have done what is required of them, then there is no alternative to issuing the permits; the required environmental assessment worksheet shows no environmental harm or impact from this project; Spirit Mountain will prosper after improvements and changes have been made; now is the time for this improvement.

Rick Certano, executive director of Spirit Mountain, stated that the original vision for Spirit Mountain included a championship golf course and hotel, and that successful operations are needed to fund improvements that will create a destination that visitors want to go to.

William Burns, applicant's attorney, reviewed that there is a legal contract between the city of Duluth and the developer which includes a development and lease agreement. He continued that the record of law for this case is: that the city of Duluth's planning commission determined that there is no substantial environmental impact; court decisions upholding the planning commission; and environmental assessments as they pertain to LAWCON. He concluded by noting that the native American cultural issue will be resolved in the permitting process and will comply with all regulations.

Kent Oliver and George Hovland, the developers, noted that they have made many changes and reduced the size of the project in response to concerns and issues raised. They reviewed what the financial impact of the construction and operations of the golf course and hotel will be.

Mayor Doty commented on how, from the beginning, Spirit Mountain had been planned as a year round recreation site, including a golf course and hotel. He further noted that the developers have meet all the necessary requirements for the work permits, which is the issue at this time; and that the LAWCON issue is separate from this and will be properly resolved.

Michael Conlan, director of planning and development, commented on the concerns relative to the significance of areas at Spirit Mountain that are special to the native American culture. Mr. Conlan addressed the area at the top of the mountain, which was noted by the Lake Superior Band of Chippewa in Public Document No. 02-0708-14(b), and stated that the project does not

impact this particular development and should be acknowledged as special area to be preserved in its present state.

Bryan Brown, city attorney, noted that the rule of law is that if the applicants meet the standards required for the work permits, that the applicant is entitled to the permit and failure to grant the permit is arbitrary.

- - -

At this time, 10:54 p.m., the rules were suspended upon a unanimous vote to extend the council meeting to midnight.

- - -

The council had lengthy discussion on the many issues associated with both resolutions. Councilor Hogg stated that because his proposed amendment was not seconded and adopted, he would vote against both resolutions.

- - -

At this time, 11:50 p.m., the rules were suspended upon a unanimous vote to extend the council meeting to 12:30 a.m.

- - -

Resolution 02-0344 failed upon the following vote (Public Document No. 02-0708-28):

Yeas: Councilors Atkins, Stauber and Stenberg -- 3

Nays: Councilors Bergson, Gilbert, Hogg, Stewart, Stover and President Ness -- 6

- - -

Resolution 02-0343 was adopted upon the following vote:

Yeas: Councilors Bergson, Gilbert, Stewart, Stover and President Ness -- 5

Nays: Councilors Atkins, Hogg, Stauber and Stenberg -- 4

[Editor's Note: Resolution 02-0343 was vetoed by Mayor Doty on July 22, 2002 (Public Document No. 02-0722-10), reconsidered on July 22, 2001, and failed to pass due to a lack of a 6/9ths majority.]

- - -

Councilor Stauber moved to remove Resolution 02-0432, authorizing execution of an agreement for management services with the Duluth Steam Cooperative Association, from the table, which motion was seconded and unanimously carried.

Resolution 02-0432 was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute and implement an agreement for management services with the Duluth Steam Cooperative Association, substantially in the form and containing the terms of the agreement which is on file in the office of the city clerk as Public Document No. 02-0708-15.

Resolution 02-0432 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

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

BY COUNCILOR HOGG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

WHEREAS, on May 15, 1995, the city council approved Resolution No. 95-0322 assessing the property referred to therein as Parkwood Phase III for the cost of street and utility improvements to the property, \$94,049.08 of which remains unpaid; and

WHEREAS, the property referred to in said resolution as Parkwood Phase III subsequently was forfeited to the state of Minnesota for nonpayment of real estate taxes but has since been returned to private ownership; and

WHEREAS, the city has held a hearing regarding the reassessment of said sums against said properties after notice to all necessary parties, said hearing and notice thereof complying with the requirements of Section 62 of the Duluth City Charter and Section 45-79 of the Duluth City Code, 1959, as amended; and

WHEREAS, the city council has determined that the work for which the assessments were originally levied have benefitted the respective properties by amounts at least equal to or in excess of the amounts originally assessed against each such property, including the amounts to be reassessed hereunder.

RESOLVED, that pursuant to the authorization of Laws of Minnesota, 1997, Chapter 231, Article 2, Section 53, the following, previously canceled assessments are hereby reassessed in the amounts set forth below and that this reassessment roll is hereby confirmed:

Parkwood Phase III	\$94,049.08.
--------------------	--------------

Resolution 02-0442 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

WHEREAS, the Duluth City Council has confirmed assessments for the properties, amounts and dates listed on Public Document No. 02-0708-16; and

WHEREAS, the property referred to in said resolutions was forfeited to the state of Minnesota for nonpayment of real estate taxes but has since been returned to private ownership; and

WHEREAS, the city has held a hearing regarding the reassessment of said sums against said properties after notice to all necessary parties, said hearing and notice thereof complying with the requirements of Section 62 of the Duluth City Charter and Section 45-79 and any other applicable sections of the Duluth City Code, 1959, as amended; and

WHEREAS, the city council has determined that the work for which the assessments were originally levied have benefitted the respective properties by amounts at least equal to or in excess of amounts originally assessed against each such property, including the amounts of the canceled assessments.

RESOLVED, that pursuant to the authorization of Laws of Minnesota, 1997, Chapter 231, Article 2, Section 53, the following previously canceled assessments are hereby reassessed in the amounts set forth in the table listed above and that this reassessment roll is hereby confirmed.

Resolution 02-0443 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Van Iwaarden Associates for an actuarial report regarding the city's financial obligations with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

respect to retirees health insurance and life insurance, which agreement is on file in the office of the city clerk as Public Document No. 02-0708-17, at a cost to the city of not to exceed \$12,000, which shall be payable from the Group Health Fund 0630, Agency 036, Org. 1650, Object 5441.

Resolution 02-0444 was unanimously adopted.

Approved July 8, 2002

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. Note Purpose and Authorization.

1.01 (a) Under and pursuant to the provisions of Chapter 475 of Minnesota Statutes and other pertinent provisions of Minnesota Statutes and the home rule charter of the city, the city is authorized to issue its general obligation improvement bonds to finance the cost of local public improvements, and the city council may pledge the full faith and credit and taxing powers of the city for the payment of the principal and interest on such indebtedness.

(b) The city council has, by Resolution 00-0810 adopted December 4, 2000, ordered the following local public improvements: improvement to the city's wastewater collection system in the Fond du Lac neighborhood (the project), 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; and, in addition to the \$225,000 determined to be assessed for the project in Resolution 01-0238, the council hereby determines to defray additional costs of the project to be assessed against benefitting property in the amount of \$364,195.

(c) It is hereby found and determined to be necessary and in the best interest of the city, the residents of the city and the environment to construct the project.

(d) It has been determined that the total estimated sum of \$2,224,410 will be needed in order to undertake the project.

1.02 It is further hereby found and determined to be necessary and in the best interest of the city and the residents of the city to sell and issue a general obligation improvement note of the city to the Minnesota public facilities authority (the PFA) in the amount of \$364,195 to finance a portion of the project, all pursuant to Minnesota Statutes, Chapter 475 and the home rule charter of the city, and subject to execution by the PFA and state of Minnesota of a project loan and bond purchase agreement as further described below. In addition, the PFA has committed to provide supplemental assistance in the amount of \$1,753,215 in the form of a grant from its wastewater infrastructure fund, pursuant to Minnesota Statutes, Section 446A.072 (the grant).

1.03. The city hereby authorizes the issuance and sale of its \$364,195 General Obligation Improvement Note, Series 2002 (the note), in substantially the form on file in the office of the city clerk as Public Document No. 02-0708-18(a) for the purposes specified in Section 1.01 above to the PFA pursuant to a Minnesota public facilities authority project loan and bond purchase agreement dated June 24, 2002, between the PFA and the city, in substantially the form presented to the council and on file in the office of the city clerk (the loan agreement), as Public Document No. 02-0708-18(c) which is hereby authorized and approved. The grant pursuant to the loan agreement is hereby accepted and approved.

Section 2. Execution and delivery of note and loan agreement.

2.01 The note to be issued hereunder shall be dated as of the date of issuance, shall be issued in the principal amount of \$364,195, in fully registered form and lettered and numbered R-1. Principal and interest payments shall be made in the respective years and amounts set forth on Exhibit A (Public Document No. 02-0708-18(b)) to the note.

2.02 The note and the loan agreement shall be prepared for execution in accordance with the approved forms and shall be signed by the manual signature of the mayor and attested by the manual signature of the city clerk. In case any officer whose signature shall appear on the note shall cease to be an officer before delivery of the note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

2.03. The city will cause to be kept at its offices a register in which, subject to such reasonable regulations as the city may prescribe, the city shall provide for the registration of transfers of ownership of the note. The note shall be initially registered in the name of the PFA and shall be transferable upon the register by the PFA in person or by its agent duly authorized in writing, upon surrender of the note, together with a written instrument of transfer satisfactory to the clerk, duly executed by the PFA or its duly authorized agent.

2.04. Delivery of the note shall be made at a place mutually satisfactory to the city and the PFA. The note shall be furnished by the city without cost to the PFA. The note, when prepared in accordance with this resolution and executed, shall be delivered to the PFA by and under the direction of the city treasurer. Disbursement of the proceeds of the note shall be made pursuant to the loan agreement.

2.05. In the event of an inconsistency between a provision of this resolution and a provision of the loan agreement, the provision of the loan agreement shall govern.

Section 3. Revenues, accounts and covenants.

3.01 Upon receipt of disbursements under the note and loan agreement, the city shall credit the proceeds from the note into a separate construction account for the project (the Fond du Lac sewer account) within the capital projects fund. The proper city officers are authorized and directed to pay out of the Fond du Lac sewer 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 note shall be paid from the Fond du Lac sewer account.

3.02 The city council covenants and agrees with the holders of the note and with its taxpayers that it will assess against benefitted property the assessable costs of the project as set forth in Section 1.01B which is not less than 20 percent of the costs of the project financed by the proceeds of the note. The city council further covenants and agrees that, with due diligence, it will complete the special assessment process, including any and all supplemental assessments or reassessments that may be required to lawfully assess the benefitted property.

3.03 (a) A separate account within the special assessment debt service fund maintained by the city is hereby created and is designated the "2002 improvement note account." The money in such account shall be used for no purpose other than the payment of principal and interest on the note; 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 2002 improvement note account shall be paid the portion of the special assessments levied for the project allocable to the debt service payments on the note.

(b) The proceeds of the special assessments levied for the project allocable to the debt service payments on the note are hereby appropriated and shall be paid when collected into the 2002 improvement note account. If the balance in the 2002 improvement note account is ever insufficient to pay all principal and interest then due on the note, 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 2002 improvement note account when the balance therein is sufficient.

3.04 It is hereby determined that the estimated collections of special assessments and interest thereon for payment of principal and interest on the note will produce at least five percent in excess of the amount needed to meet when due, the principal and interest payments on the note and that no tax levy is needed at this time. It is recognized, however, that the city's liability on the note 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 note, without limitation as to rate or amount.

3.05 Until the note issued hereunder is fully paid, the city shall establish and maintain a replacement account (the 2002 Fond du Lac system replacement account") within the public utility sewer fund. The city covenants and agrees to set aside in the 2002 Fond du Lac system replacement account a minimum of \$.10 per 1000 gallons of flow from the city's wastewater collection system in the Fond du Lac neighborhood per annum. Money in such replacement account may be used for major rehabilitation, expansion or replacement of the project at the end of its useful life. Disbursement of monies within such replacement account may be made only with the approval of PFA. The city further covenants and agrees to establish a system to determine the annual flows from the project.

3.06 Proceeds of the note on deposit in the 2002 improvement note account and the 2002 Fond du Lac System replacement 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 Note when due.

Section 4. Tax covenants; miscellaneous.

4.01 The city council covenants and agrees with the holders of the note that the city will (i) take all action on its part necessary to cause the interest on the note 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 note 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 note to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the note and investment earnings thereon on certain specified purposes.

4.02 (a) No portion of the proceeds of the note 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 note was issued. To this effect, any proceeds of the note 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 note) 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 note 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 note to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1996, as amended (the code).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

(c) The city hereby covenants not to use the proceeds of the note, or to cause or permit them to be used, in such a manner as to cause the note to be a private activity bond 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 note, the following schedule will be met: (i) at least 15 percent of the gross proceeds of the note will be allocated to expenditures for the governmental purpose of the note within six months of the date of issue of the note; (ii) at least 60 percent of such proceeds will be allocated for such purposes within the one year period of such date; and (iii) 100 percent of such proceeds will be allocated for such purposes within the 18 month period beginning on such date; subject to an exception for reasonable retainage of 5 percent of the available proceeds of the note, and that 100 percent of the available proceeds of the note will be allocated within 30 months from the date of issue of the note.

(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. Certificate of proceedings.

5.01 The clerk is directed to file with the county auditor a certified copy of this resolution and such other information as the county auditor may require, and to obtain from the county auditor a certificate stating that the note herein authorized has been duly entered on his register.

5.02 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 note and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the note 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.

5.03 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 note 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 02-0468 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointment by Mayor Doty of George Weller to the board of zoning appeals for a term expiring July 31, 2006, is confirmed.

Resolution 02-0448 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointments to the community development committee of the following by Mayor Doty are confirmed:

Steve Sydow (District 5) for a term expiring March 1, 2005, replacing Derrick Parker.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Myrna Matheson (District 7) for a term expiring March 1, 2004, replacing Bonnie Jorgenson, who resigned.

Resolution 02-0449 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointment by Mayor Doty of Jane C. Gilbert to the sanitary sewer board of the Western Lake Superior Sanitary District for a term expiring July 1, 2005, is confirmed.

Resolution 02-0451 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointment by Mayor Doty of Yvonne Prettner Solon to the Duluth state convention center administrative board for a term expiring June 30, 2005, is confirmed.

Resolution 02-0452 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointment by Mayor Doty of Michael Hargrove to the animal humane board for a term expiring October 31, 2007, replacing Larry D. Anderson who resigned, is confirmed.

Resolution 02-0453 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointments to the technical design advisory committee for the Downtown Waterfront Mixed Use-Design Review District of the following by Mayor Doty are confirmed:

Tami LaPole (area) and Scott Miller (at large) for terms expiring May 31, 2005, replacing Rolland Nelson and Dan R. McClelland.

Resolution 02-0458 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointment by Mayor Doty of Neale Roth (com. ed.) to the parks and recreation commission for a term expiring February 13, 2005, replacing Ronald Weber, is confirmed.

Resolution 02-0472 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

RESOLVED, that proper city officials are hereby authorized to enter into a contract with Pat Miller, Consultant, to provide team assessment services to the multi-agency, multi-disciplinary team at the Memorial Family Resource Center for the period June 1, through July 31, 2002, at a cost not to exceed \$6,000. A copy of this agreement shall be on file at the city clerk's office as Public Document No. 02-0708-19.

FURTHER RESOLVED, that costs incurred shall be charged to Fund 0268, Budget Item 6276.

Resolution 02-0454 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file with the office of the city clerk as Public Document No. 02-0708-20, with job service for the provision of dislocated worker services pursuant to the Workforce Investment Act and Minnesota Statutes, Chapter 268, for the period of July 1, 2002, through June 30, 2003, at costs not to exceed \$124,096 for the federal program and \$189,834 for the state program which shall be payable from Fund 0268.

Resolution 02-0456 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement substantially in the form of that which is on file in the office of the city clerk as Public Document No. 02-0708-21, with the Northeast Minnesota office of job training for the provision of services to assist parents of low income families to find work under the Minnesota family investment program in an amount not to exceed \$590,810 for the period July 1, 2002, through June 30, 2003, payable from Fund 0268, Budget Item 6278.

Resolution 02-0457 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to execute an agreement, substantially in the form of that which is filed in the office of the city clerk as Public Document No. 02-0708-22, with the Arrowhead Economic Opportunity Agency for the provision of services to assist parents of low income families to find work under the Minnesota family investment program in an amount not to exceed \$331,802 for the period July 1, 2002, through June 30, 2003, payable from Fund 0268, Budget Item 6278.

Resolution 02-0460 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with the Salvation Army to provide wrap around intervention (social) services to MFIP participant's residing

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

in the city of Duluth who are at risk of reaching the 60 month lifetime eligibility limit for the period July 1, 2002, through June 30, 2003, at a cost not to exceed \$358,000. A copy of this agreement shall be on file at the city clerk's office as Public Document No. 02-0708-23.

Resolution 02-0469 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to accept \$228,570 in Workforce Investment Act adult funds from the Minnesota department of economic security in accordance with city Contract No. 19118, Resolution No. 02-0212, passed April 8, 2002. Said monies to be used to provide workforce development services to adults under the workforce investment act, as defined in the program year 2002-2003 local plan for adult services, from July 1, 2002, through June 30, 2003. Funds received will be deposited in Fund No. 0268, Budget Item 6257.

Resolution 02-0470 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to accept \$150,882 in Minnesota youth program funds and \$290,402 in Workforce Investment Act youth funds from the Minnesota department of economic security in accordance with city Contract No. 19118, Resolution No. 02-0212, passed April 8, 2002. Said monies will be used to provide workforce development services to at risk youth as defined in the program year 2002-2003 local plan for youth services from July 1, 2002, through June 30, 2003. Funds received will be deposited in Fund No. 0268, budget items 6254, 6255 and 6256.

Resolution 02-0471 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth is in the process of constructing a sanitary sewer system in the Fond du Lac area; and

WHEREAS, the above mentioned sewer system features publicly owned and maintained grinder pumps serving individual residences in the Fond du Lac area; and

WHEREAS, Section 43-70 of the Duluth City Code authorizes the imposition of a grinder pump maintenance fee upon houses served by a publicly owned and maintained grinder pump to cover the cost of maintaining the grinder pumps and replacing them when they wear out; and

WHEREAS, the city's studies indicate that a \$15 per month charge is appropriate and necessary to cover anticipated costs of maintaining and replacing the Fond du Lac grinder pumps.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 43-70(b) of the Duluth City Code, the Duluth City Council hereby establishes the Fond du Lac grinder pump fee at \$15 per month.

Resolution 02-0447 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Landwehr Construction, Inc., be and hereby is awarded a contract for construction of Bridge Number 69J36 over Chester Creek on Kenwood Avenue for the engineering division in accordance with specifications on its low specification bid of \$324,547.92, terms net 30, FOB job site, payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5533; to be reimbursed from municipal state aid funds.

Resolution 02-0461 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 01-0674 to Short Elliott Hendrickson, Inc., for the engineering services required for the survey, hydraulics, geotechnical work and design, right-of-way research, plans and specifications, bidding and construction engineering for Grey's Creek between East Sixth Street and East Sixth Street Alley, and Oregon Creek below Jefferson Street to 20th Avenue East, be amended to increase the amount by \$16,181 for a new total of \$44,181, payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 02-0462 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that T.M.I. Coatings, Inc., be and hereby is awarded a contract for rehabilitation of Woodland reservoir walls with shotcrete for the engineering division in accordance with specifications on its low specification bid of \$168,800, terms net, FOB job site, payable out of Water Construction Bond Fund 0511, Dept./Agency 500, Object 5532.

Resolution 02-0463 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Duluth Superior Erection, Inc., be and hereby is awarded a contract for construction of year 2002 citywide street and sidewalk repairs for the engineering division in accordance with specifications on its low specification bid of \$299,915, terms net 30, FOB job sites, payable out of Special Assessment Fund 0410, Dept./Agency 038, Organization 5355, Object 5530.

Resolution 02-0464 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to design a gas line replacement project; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for the design a gas line replacement project near I-35 and Garfield Avenue; and

WHEREAS, L.H.B. Architects and Engineers has submitted a proposal for engineering services in connection with this project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with L.H.B. Engineers and Architects to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$36,000, will be payable from the Gas Fund 0520, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 02-0465 was unanimously adopted.
Approved July 8, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Northland Constructors, LLC, be and hereby is awarded a contract for construction of the drainage improvements at Morningside Avenue from Snively Road to Valley Drive for the engineering division in accordance with specifications on its low specification bid of \$157,700, terms net 30, FOB job site, payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 02-0466 was unanimously adopted.
Approved July 8, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Jack G. Hagadorn and Lee K. Hagadorn to petition for the permanent improvement of 54th Avenue East along its frontage with Lot 1, Block 4, Edgebrook Division; said agreement filed as Public Document No. 02-0708-24.

Resolution 02-0467 was unanimously adopted.
Approved July 8, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that in accordance with the provisions of Section 33-84 of the Duluth City Code, 1959, as amended, the following two hour parking from 8 a.m. to 5 p.m., Monday through Friday zones are hereby established:

In the parking bay on the north side of East Fourth Street from 11th Avenue East westerly 60 feet;

On the west side of Fourth Avenue East from Superior Street to the alley.

Resolution 02-0418 was unanimously adopted.
Approved July 8, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, 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 1010 North 13th Avenue East;

Front of 1527 North 7th Avenue East;

Front of 229 North 60th Avenue West;

Behind St. Paul's Episcopal Church - 1710 East Superior Street (three stalls).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Resolution 02-0441 was unanimously adopted.
Approved July 8, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Krech, Ojard & Associates for the sum of not to exceed \$16,900, from Capital Fund 450, Agency 015, Org. 2002, Object C209, for providing certain professional services to the city of Duluth in connection with the 2002 improvements to Fryberger Arena, 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. 02-0708-25.

Resolution 02-0446 was unanimously adopted.
Approved July 8, 2002
GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 02-0474, by Councilor Atkins, approving the temporary expansions of the on sale intoxicating liquor licenses of Scanlon River Inn, Inc. (Pioneer Bar), 323 West First Street, and Wizner Company (Norman's), 113 West First Street, was introduced for discussion.

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

"BE IT FURTHER RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places in the areas on First Street between Third and Fourth Avenues West and First and Second Avenues West, on July 19, 2002 (July 20, 2002, rain date), 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," which motion was seconded and carried upon a unanimous vote.

Resolution 02-0474, as amended, was adopted as follows:

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansions of the designated serving areas of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Scanlon River Inn, Inc. (Pioneer Bar), 323 West First Street, for July 19, 2002, with the music and the serving ceasing at 12:00 a.m. (rain date: July 20, 2002);

Wizner Company (Norman's), 133 West First Street, for July 19, 2002, with the music and the serving ceasing at 12:00 a.m. (rain date: July 20, 2002).

BE IT FURTHER RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places in the areas on First Street between Third and Fourth Avenues West and First and Second Avenues West, on July 19, 2002 (July 20, 2002, rain date), 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.

Resolution 02-0474, as amended, was unanimously adopted.
Approved July 8, 2002
GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Resolution 02-0445, by Councilor Stewart, confirming appointments to the new American Indian commission, was introduced for discussion.

Councilor Stewart moved to table the resolution, which motion was seconded and carried upon a unanimous vote.

- - -

Resolution 02-0450, by Councilor Stewart, confirming reappointments of Gregg Lilejord and Louise S. Yount to the tree commission, was introduced for discussion.

Councilor Stewart moved to return the resolution to the administration, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stewart, Stover and President Ness -- 8

Nays: Councilor Stenberg --1

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to enter into the first amendment to Agreement No. 18637, on file in the office of the city clerk as Public Document No. 02-0708-26, with Dukes Baseball, Inc., extending the term of their lease of Wade Stadium for the operation of a professional baseball franchise for one year until September 15, 2002.

Resolution 02-0475 was unanimously adopted.

Approved July 8, 2002

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

02-019 (9542) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF AN EASEMENT FOR HIGHWAY PURPOSES IN CERTAIN UNUSED LAND IN ENGER PARK TO THE STATE OF MINNESOTA FOR A CONSIDERATION OF \$27,500.

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

President Ness moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The following entitled ordinances were read for the first time:

BY COUNCILOR GILBERT

02-029 - AN ORDINANCE AUTHORIZING AGREEMENT FOR SALE OF CERTAIN PROPERTY IN DULUTH HEIGHTS TO BILLMAN CONSTRUCTION, INC., AND HABITAT FOR HUMANITY-DULUTH, INC., FOR THE DEVELOPMENT OF LOW AND MODERATE INCOME AND MARKET RATE HOUSING.

- - -

BY COUNCILOR STENBERG

02-027 - AN ORDINANCE PERTAINING TO LAND USE IN THE CITY OF DULUTH, CREATING AN S-2 SUBURBAN RESIDENTIAL DISTRICT; ADDING A NEW DIVISION 2 TO ARTICLE VII AND AMENDING SECTIONS 50-2, 50-20.1, 50-23, 50-36.2, 50-55 AND 50-56, OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR STENBERG

02-028 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

AMENDED, ZONING DISTRICT MAP NOS 45, 47, 48 AND 49, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-A AND R-1-B SINGLE FAMILY RESIDENTIAL AND S SUBURBAN TO S-2 SUBURBAN RESIDENTIAL, PROPERTIES LOCATED BETWEEN THE LESTER RIVER AND THE NORTHERN CITY LIMITS, BETWEEN THE CENTERLINE OF TRUNK HIGHWAY 61 AND LAKE SUPERIOR (DULUTH/NORTH SHORE SANITARY DISTRICT).

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR HOGG

02-021 (9543) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,745,000 GENERAL OBLIGATION WATER UTILITY REVENUE BONDS OF THE CITY OF DULUTH FOR THE PUBLIC FACILITIES PROJECT 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 HOGG

02-022 (9544) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,470,000 GENERAL OBLIGATION STORMWATER UTILITY REVENUE BONDS OF THE CITY OF DULUTH FOR THE PUBLIC FACILITIES PROJECT 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 HOGG

02-023 (9545) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$2,065,000 GENERAL OBLIGATION SEWER UTILITY REVENUE BONDS OF THE CITY OF DULUTH FOR THE PUBLIC FACILITIES PROJECT 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 HOGG

02-024 (9546) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$2,200,000 GENERAL OBLIGATION GAS UTILITY REVENUE BONDS OF THE CITY OF DULUTH FOR THE PUBLIC FACILITIES PROJECT 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 STENBERG

02-020 (9547) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE

1959, AS AMENDED, ZONING DISTRICT MAP NOS. 3 AND 4 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-C SINGLE FAMILY RESIDENTIAL TO R-1-A SINGLE FAMILY RESIDENTIAL, PROPERTY LOCATED IN THE FOND DU LAC NEIGHBORHOOD.

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

- - -

BY COUNCILOR STENBERG

02-025 (9548) - AN ORDINANCE GRANTING TO DALE R. AND PATRICIA A. SUNDIN PERMISSION TO OCCUPY, CONSTRUCT AND MAINTAIN A TWO CAR GARAGE IN THE RIGHT-OF- WAY OF JOSHUA AVENUE ADJACENT TO 1121 REDBUD STREET.

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

- - -

BY COUNCILOR STOVER

02-026 (9549) - AN ORDINANCE AMENDING ORDINANCE NO. 8854 AUTHORIZING SALE OF CERTAIN PROPERTY TO REHL CORPORATION.

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

- - -

The meeting was adjourned at 12:15 a.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9542

BY PRESIDENT NESS:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF AN EASEMENT FOR HIGHWAY PURPOSES IN CERTAIN UNUSED LAND IN ENGER PARK TO THE STATE OF MINNESOTA FOR A CONSIDERATION OF \$27,500.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby sells a permanent easement for highway purposes over, under and across that certain real estate located in St. Louis County, Minnesota, hereinafter described, to the state of Minnesota for \$27,500 to be deposited in the Permanent Improvement Fund 0411:

All of tracts A, B, C, D, E, F, G and H described below:

Tract A. Block 3, LINCOLN PARK TERRACE, according to the plat thereof on file and of record in the office of the county recorder in and for St. Louis County, Minnesota; the title thereto being registered as evidenced by Certificate of Title No. 48991;

Tract B. Lots 5 thru 9 inclusive, Block 27, Harrison's Brookdale Division of Duluth, according to the plat thereof on file and of record in the office of the county recorder in and for St. Louis County, Minnesota;

Tract C. Lots 3 and 4, Block 27, Harrison's Brookdale Division of Duluth, according to the plat thereof on file and of record in the office of the county recorder in and for St. Louis County, Minnesota; the title thereto being registered as evidenced by Certificate of Title No. 23970;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Tract D. Lots 1 and 2, Block 27, and Lot 7, Block 26, Harrison's Brookdale Division of Duluth, according to the plat thereof on file and of record in the office of the county recorder in and for St. Louis County, Minnesota; the title thereto being registered as evidenced by Certificate of Title No. 20243;

Tract E. Lots 4, 5, and 8 thru 15 inclusive, Block 26, Harrison's Brookdale Division of Duluth, according to the plat thereof on file and of record in the office of the county recorder in and for St. Louis County, Minnesota;

Tract F. Lots 1, 2, 3, and 6, Block 26, Harrison's Brookdale Division of Duluth, according to the plat thereof on file and of record in the office of the county recorder in and for St. Louis County, Minnesota; the title thereto being registered as evidenced by Certificate of Title No. 18814;

Tract G. Lot 19, Block 24, Harrison's Brookdale Division of Duluth, according to the plat thereof on file and of record in the office of the county recorder in and for St. Louis County, Minnesota;

Tract H. Lot 23, Block 25, Harrison's Brookdale Division of Duluth, according to the plat thereof on file and of record in the office of the county recorder in and for St. Louis County, Minnesota;

Tract J. Lots 21 and 22, Block 25, Harrison's Brookdale Division of Duluth, according to the plat thereof on file and of record in the office of the county recorder in and for St. Louis County, Minnesota;

Tract K. Lot 20, Block 25, Harrison's Brookdale Division of Duluth, according to the plat thereof on file and of record in the office of the county recorder in and for St. Louis County, Minnesota; the title thereto being registered as evidenced by Certificate of Title No. 20243;

Tract L. Lot 18, Block 24, Harrison's Brookdale Division of Duluth, according to the plat thereof on file and of record in the office of the county recorder in and for St. Louis County, Minnesota;

together with that part of Tract J hereinbefore described, which lies southwesterly of Line 1 described below:

Line 1. Beginning at the southeast corner of Lot 22, Block 25, said Harrison's Brookdale Division of Duluth; thence run northwesterly to the northwest corner of Lot 21, said Block 25 and there terminating; together with all right of access being the right of ingress to and egress from that part of tracts J, K and L hereinbefore described, not acquired herein, to Trunk Highway No. 53.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: August 18, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 8, 2002
Approved July 8, 2002
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9543

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,745,000 GENERAL OBLIGATION WATER UTILITY REVENUE BONDS OF THE CITY OF DULUTH FOR THE PUBLIC FACILITIES PROJECT 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 The city council has determined it to be necessary and expedient and in the public interest that the city construct and equip a public utilities facility on Garfield Avenue to provide garage and office facilities for the gas utility, the sewer utility, the water utility and the stormwater utility (the project). The city staff has prepared and presented to the council a detailed analysis of the projected use of the project by each utility which forms the basis for the allocation of the development costs for the project to each utility. The final allocation of costs for the project to each utility shall be based on the contract price of the construction contract for the project.

1.02 Under and pursuant to the provisions of Section 55 of the City Charter, Section 444.075 and Chapter 475 of Minnesota Statutes, and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal water utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal water utility pledged for their payment.

1.03 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal water utility by providing the water utility plant with a portion of the project, and determines it is necessary to issue general obligation water utility revenue bonds in the maximum amount of \$1,745,000 for the purpose of paying the municipal water utility's portion of the costs of the project, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56. The city council, by further resolution, shall establish the allocable portion of the project which will become a part of the water utility plant.

1.04 The city has heretofore issued and sold general obligation water utility revenue bonds dated June 1, 1995, now outstanding in the amount of \$660,000; general obligation water utility revenue bonds dated September 1, 1997, now outstanding in the amount of \$1,580,000; dated May 1, 1998, the water utility portion of such bonds now outstanding in the amount of \$1,655,000; and dated December 1, 2000, now outstanding in the amount of \$1,470,000. 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 November 1, 1992, June 1, 1995, September 1, 1997, May 1, 1998, and December 1, 2000.

1.05 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation water utility revenue bonds of the city of Duluth in the maximum amount of \$1,745,000 and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal of and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal water utility. Net revenues are defined as sums from time to time within the water utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable,

and current expenses of operating and maintaining the municipal water utility and to maintain such reasonable reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

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

Section 2. Terms of bonds.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions, and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such 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 water utility at the times and amounts required to pay the normal, and current operating expenses and to maintain the municipal water 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: August 18, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 8, 2002
Approved July 8, 2002
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9544

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,470,000 GENERAL OBLIGATION STORMWATER UTILITY REVENUE BONDS OF THE CITY OF DULUTH FOR THE PUBLIC FACILITIES PROJECT 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 The city council has determined it to be necessary and expedient and in the public interest that the city construct and equip a public utilities facility on Garfield Avenue to provide garage and office facilities for the gas utility, the water utility, the sewer utility and the stormwater utility (the project). The city staff has prepared and presented to the council a detailed analysis of the projected use of the project by each utility which forms the basis for the allocation of the development costs for the project to each utility. The final allocation of costs for the project to each utility shall be based on the contract price of the construction contract for the project.

1.02 Under and pursuant to the provisions of Section 55 of the City Charter, Section 444.075 and Chapter 475 of Minnesota Statutes, and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal stormwater 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 stormwater utility pledged for their payment.

1.03 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal stormwater utility by providing the stormwater utility plant with a portion of the project, and determines it is necessary to issue general obligation stormwater utility revenue bonds in the maximum amount of \$1,470,000 for the purpose of paying the municipal stormwater utility's portion of the costs of the project, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56. The city council, by further resolution, shall establish the allocable portion of the project which will become a part of the stormwater utility plant.

1.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation stormwater utility revenue bonds of the city of Duluth in the maximum amount of \$1,470,000 and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal of and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal stormwater utility. Net revenues are defined as sums from time to time within the stormwater 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

stormwater utility and to maintain such reasonable reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

1.05 The city reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the municipal stormwater 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 stormwater 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 stormwater utility at the times and amounts required to pay the normal, and current operating expenses and to maintain the municipal stormwater 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: August 18, 2002)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 8, 2002
Approved July 8, 2002
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9545

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$2,065,000 GENERAL OBLIGATION SEWER UTILITY REVENUE BONDS OF THE CITY OF DULUTH FOR THE PUBLIC FACILITIES PROJECT 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 The city council has determined it to be necessary and expedient and in the public interest that the city construct and equip a public utilities facility on Garfield Avenue to provide garage and office facilities for the gas utility, the water utility, the sewer utility and the stormwater utility (the project). The city staff has prepared and presented to the council a detailed analysis of the projected use of the project by each utility which forms the basis for the allocation of the development costs for the project to each utility. The final allocation of costs for the project to each utility shall be based on the contract price of the construction contract for the project.

1.02 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.

1.03 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal sewer utility by providing the sewer utility plant with a portion of the project, and determines it is necessary to issue general obligation sewer utility revenue bonds in the maximum amount of \$2,065,000 for the purpose of paying the municipal sewer utility's portion of the costs of the project, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56. The city council, by further resolution, shall establish the allocable portion of the project which will become a part of the sewer utility plant.

1.04 The city has heretofore issued and sold general obligation sewer utility revenue bonds dated June 1, 1995, now outstanding in the amount of \$1,320,000; dated June 1, 1995, now outstanding in the amount of \$300,000; dated December 1, 1995, now outstanding in the amount of \$145,000; dated May 1, 1998, now outstanding in the amount of \$415,000; dated December 1, 1998, now outstanding in the amount of \$805,000; dated December 1, 1999, now outstanding in the amount of \$1,590,000; dated December 1, 2000, now outstanding in the amount of \$550,000; and dated December 1, 2001, now outstanding in the amount of \$1,330,000. 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,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

December 1, 1995, May 1, 1998, December 1, 1998, December 1, 1999, December 1, 2000, and December 1, 2001.

1.05 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation sewer utility revenue bonds of the city of Duluth in the maximum amount of \$2,065,000 and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal of and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal sewer utility. Net revenues are defined as sums from time to time within the sewer utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal sewer utility and to maintain such reasonable reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

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

Section 2. Terms of bonds.

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

Section 3. Revenues and accounts.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and amounts required to pay the normal, and current operating expenses and to maintain the municipal sewer utility and also to produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

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

Section 4. Certification of proceedings.

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

4.02 The officers of the city and the county auditor are authorized and directed to prepare and furnish to the purchasers of the bonds, and to bond counsel, certified copies of all proceedings and records of the city relating to the authorization and issuance of the bonds and such other

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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: August 18, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 8, 2002
Approved July 8, 2002
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9546

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$2,200,000 GENERAL OBLIGATION GAS UTILITY REVENUE BONDS OF THE CITY OF DULUTH FOR THE PUBLIC FACILITIES PROJECT 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 The city council has determined it to be necessary and expedient and in the public interest that the city construct and equip a public utilities facility on Garfield Avenue to provide garage and office facilities for the gas utility, the water utility, the sewer utility and the stormwater utility (the project). The city staff has prepared and presented to the council a detailed analysis of the projected use of the project by each utility which forms the basis for the allocation of the development costs for the project to each utility. The final allocation of costs for the project to each utility shall be based on the contract price of the construction contract for the project.

1.02 Under and pursuant to the provisions of Section 55 of the City Charter and Chapter 475 of Minnesota Statutes, and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal gas utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal gas utility pledged for their payment.

1.03 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal gas utility by providing the gas utility plant with a portion of the project, and determines it is necessary to issue general obligation gas utility revenue bonds in the maximum amount of \$2,200,000 for the purpose of paying the municipal gas utility's portion of the costs of the project, and paying for a portion of the interest cost of the issue, as allowed by

Minnesota Statutes, Section 475.56. The city council, by further resolution, shall establish the allocable portion of the project which will become a part of the gas utility plant.

1.04 The city has heretofore issued and sold general obligation gas utility revenue bonds dated December 1, 2001, now outstanding in the amount of \$5,300,000. Under the provisions of the ordinance authorizing said bonds, the city reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds dated December 1, 2001.

1.05 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation gas utility revenue bonds of the city of Duluth in the maximum amount of \$2,200,000 and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal of and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal gas utility. Net revenues are defined as sums from time to time within the gas utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal gas utility and to maintain such reasonable reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

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

Section 2. Terms of bonds.

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

Section 3. Revenues and accounts.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal gas utility at the times and amounts required to pay the normal, and current operating expenses and to maintain the municipal gas utility and also to produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

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

Section 4. Certification of proceedings.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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: August 18, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 8, 2002
Approved July 8, 2002
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9547

BY COUNCILOR STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 2 AND 3 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-C SINGLE FAMILY RESIDENTIAL TO R-1-A SINGLE FAMILY RESIDENTIAL, PROPERTY LOCATED IN THE FOND DU LAC NEIGHBORHOOD.

The city of Duluth does ordain:

Section 1. That Plates No. 2 and No. 3 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959 is amended to read as follows:

[MAPS]

[see pages 318 & 319]

Section 2. This zone change is subject to the provision that, notwithstanding the terms of the R-1-a residential district, any lot of record on the effective date of this ordinance, which is held under separate ownership from adjoining lots and which has an area of 5,000 square feet or more, may nonetheless be used in accordance with terms of the R-1-c zone.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 18, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:

Passed July 8, 2002
Approved July 8, 2002

JEFFREY J. COX, City Clerk

GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9548

BY COUNCILOR STENBERG:

AN ORDINANCE GRANTING TO DALE R. AND PATRICIA A. SUNDIN PERMISSION TO OCCUPY, CONSTRUCT AND MAINTAIN A TWO CAR GARAGE IN THE RIGHT-OF- WAY OF JOSHUA AVENUE ADJACENT TO 1121 REDBUD STREET.

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 Dale R. and Patricia A. Sundin, and their successors in interest, referred to herein as the permittees, to occupy, erect and maintain a garage in all that part of Joshua Avenue as the same was dedicated to the use of the public and the plat of Ponderosa Groves, Duluth, on file and of record in the office of the registrar of deeds in and for the St. Louis County, Minnesota, described as follows:

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk; a duly executed and acknowledged written acceptance of the terms of this ordinance; a certificate of insurance approved as to form by the city attorney evidencing that such person or organization has in force insurance in the minimum amounts of \$300,000 for bodily injuries resulting in any year and \$50,000 property damage in any one year protecting such person or organization and the city of Duluth against liability for injuries or damages resulting from the placement of such objects or materials on public sidewalks or boulevard areas. The permission granted by such ordinance shall be conditioned upon such person or organization continuing to supply the city with evidence that such insurance remains in effect and all insurance required herein shall contain a provision that no policy may be canceled until ten days after written notice is given to the city clerk. Such policy shall name the city as an additional insured; and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

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

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said garage 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 garage 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 Joshua Avenue and

agree that the city of Duluth shall not be liable for damage caused to such garage 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 garage in said Joshua Avenue.

Section 6. That the permittee shall further observe the following conditions:

(a) Prior to the issuance of any building permits, the existing six inch watermain be relocated as directed, approved and accepted in writing by the city engineer;

(b) That all city building codes will be observed in the construction of said garage;

(c) The structure shall be placed no less than six feet from the platted centerline of Joshua Avenue, and otherwise limited to and maintained in accordance with the site plan submitted and dated May 1, 2002 (Public Document No. 02-0708-27).

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 18, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 8, 2002
Approved July 8, 2002
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9549

BY COUNCILOR STOVER:

AN ORDINANCE AMENDING ORDINANCE NO. 8854 AUTHORIZING SALE OF CERTAIN PROPERTY TO REHL CORPORATION.

The city of Duluth does ordain:

Section 1. That Ordinance No. 8854 authorizing sale of the following described property in St. Louis County, Minnesota, by quit claim deed, to Rehl Corporation be amended to increase the sale price to \$15,000, payable to Fund 0100, Agency 700, Org. 1418, Revenue Source 4640 sale of land:

Lots 3, 4, 5, 14, 15 and 16, Block 24, DULUTH HEIGHTS Sixth Division, except minerals.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: August 14, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 8, 2002
Approved July 8, 2002
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 22, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Absent: Councilor Atkins -- 1

- - -

The minutes of city council meetings held June 3, 10 and 17, 2002, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0722-01 Janet Nilson, et al. (five signatures), submitting petition to construct a residential street and sanitary sewer, water and gas mains in 85th Avenue West to serve Lot 1, Block 2, and Lots 1 and 2, Block 1, Wahlstrom Division Second Addition. -- Assessor

02-0722-11 Jon Lackner submitting communication regarding suspension of the on sale liquor license of Lac/Tom Investments, Ltd., d/b/a The Limit Bar (02-0487R). -- Received

02-0722-12 The following submitting communications regarding ordering the street improvement known as the 2003 UMD/Lower Chester III street improvement program (02-0481R): (a) Richard Andree (supported by ten signatures); (b) Carolyn Sundquist. -- Received

02-0722-02 The following submitting communications regarding the work permits for a proposed golf course at the Spirit Mountain recreation area (02-0343R): (a) Christina Bellert; (b) Eric Dings; (c) Julia Dinsmore; (d) Duane Forbort; (e) Karen Kilpo; (f) Diane Lings; (g) Kristine Osbakken; (h) Judy Seliga. -- Received

- - -

REPORTS OF OFFICERS

02-0722-10 Mayor Doty submitting veto of Resolution 02-0343 denying work permit application of Spirit Ridge, LLC, related to the Spirit Ridge project. -- Received

02-0722-03 Assessor submitting notice of an informational hearing to be held on July 17, 2002, at 6:00 p.m. in the City Council Chambers, third floor, City Hall; and by the city council on July 22, 2002, at 7:30 p.m. in the City Council Chambers, third floor, City Hall, regarding the proposed improvement of UMD - Lower Chester III street improvement program project which includes the reconstruction and/or restoration of the existing granitoid streets on Seventh Street, Irving Place and Clover Street; replacement of the granitoid street with a bituminous street on Sixth Street and replacement of the existing bituminous street on 27th Avenue East. -- Clerk

02-0722-13 Clerk submitting alcohol, gambling and tobacco commission report, findings of fact, conclusions, recommendation, fact stipulation and transcript of June 11, 2002, hearing regarding the matter of the on sale intoxicating liquor license of Lac/Tom Investments, LTD, d/b/a/ J&J Limit Bar, 1426 Commonwealth Avenue (02-0487R). -- Received

02-0722-04 Engineering division submitting monthly project status report of July 1, 2002. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-0722-05 Alcohol, gambling and tobacco commission minutes of: (a) June 6; (b) June 11, 2002, meetings. -- Received

02-0722-06 Charter commission minutes of October 10, 2001, meeting. -- Received

02-0722-07 Community development committee minutes of March 26, 2002, meeting. -- Received

02-0722-08 Duluth airport authority: (a) Balance sheet of May 31, 2002; (b) Minutes of June 18, 2002, meeting. -- Received

02-0722-09 Duluth housing commission minutes of May 9, 2002, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

K. L. Lewis voiced concern on skateboarders and their use of city streets and public spaces which will soon cause serious injuries to the skateboarders or others in their path. She requested that the skateboard ordinance for the Downtown area be enforced.

- - -

Elijah expressed concern that doctors prescribe expensive drugs to patients when there are cheaper over the counter drugs that work just as well; and that drugs are being prescribed unnecessarily.

- - -

Greg Price reviewed a 1993 resolution passed by the Duluth City Council and signed by Mayor Doty requesting federal legislation banning high level nuclear waste within the watershed of Lake Superior. He noted that the city of Superior and St. Louis County also requested such legislation. Mr. Price continued that this is an important and much needed law that has yet to be enacted. He requested the council to renew it's request for legislation with all due haste.

- - -

RESOLUTIONS TABLED

Councilor Stewart moved to remove Resolution 02-0445, confirming appointments to the new American Indian commission, from the table, which motion was seconded and unanimously carried.

Resolution 02-0445 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that the following American Indian commission appointments by Mayor Doty are confirmed:

CJ Bird, John Day, Alberta Van Wert and Rick Ziegler for terms expiring May 12, 2005.

Lynn Nell Begay, Michele M. Gordon, Anthony F. LaDeaux and Warner B. Wirta for terms expiring May 12, 2004.

John Morrin, Robert E. Powless and Madeleine Tjaden for terms expiring May 12, 2003.

Resolution 02-0445 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

Councilor Gilbert moved to remove Resolution 02-0393, recognizing the religious and spiritual significance of Spirit Mountain to the Anishinaabeg, from the table, which motion was seconded and unanimously carried.

Councilor Gilbert moved to remove the resolution from the agenda for further revision, which motion was seconded and unanimously carried.

- - -

MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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

BY COUNCILOR ATKINS:

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:

Beerhunters Softball Team, Wheeler Field, for August 3 and 4, 2002, with Ron Herung, manager.

Copasetic Softball Team, Wheeler Field, for July 27 and 28, 2002, with Paul King, manager.

Duluth Softball Players Association, Inc., Wheeler Field, for August 19-31, 2002, with John Vaydich, manager.

Resolution 02-0485 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

D&D Enterprises of Cloquet, Inc. (Mr. D's Bar & Grill), 5622 Grand Avenue, for August 2, 2002, with the music ceasing at midnight and serving ceasing at 12:30 a.m.

Rustic Bar, Inc. (Rustic Bar), 401 North Central Avenue, for August 2, 2002, with the music ceasing at midnight and serving ceasing at 12:30 a.m.

Dwayne & Kimberly, Inc. (Kom on Inn), 332 North 57th Avenue West, for August 2, 2002, with the music ceasing at midnight and serving ceasing at 12:30 a.m.

Coughlin Tarvas, Inc. (Bedrock Bar), 2023 West Superior Street, for August 16, 2002 (rain date August 17, 2002), with the music and serving ceasing at midnight.

Curly's Bar, Inc. (Curly's Bar), 2013 West Superior Street, for August 16, 2002 (rain date August 17, 2002), with the music and serving ceasing at midnight.

Resolution 02-0486 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on portions of Ramsey Street and 57th Avenue West between Grand Avenue and Central Avenue, on August 2, 2002, 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 02-0488 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale wine license and approves the transfer of the on sale nonintoxicating malt liquor license, for the periods ending August 31, 2002, and April 30, 2003, respectively, subject to departmental approvals, the payment of sales and property taxes and further subject to approval of the liquor control commissioner:

Columba Ramos (Maya Family Restaurant), 1725 Miller Trunk Highway, with Victor Gonzales Garcia, manager, transferred from Robert Evenson, (Godfather's Pizza), same address.

Resolution 02-0489 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Duncan Industries be and hereby is awarded a contract for furnishing and delivering 120 CK electronic parking meter mechanisms for the maintenance operations division in accordance with specifications on its low specification bid of \$19,802.61, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 015, Organization 2020, Object MS07.

Resolution 02-0494 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Erling R. Hansen Contractor be and hereby is awarded a contract for re-windowing, masonry restoration and tuckpointing of the 1532 West Michigan Street maintenance shop for the city architects division in accordance with specifications on its low specification bid of \$114,500, terms net 30, FOB job site, payable out of Capital Improvements Fund 0450, Department/Agency 015, Organization 2002, Object C206.

Resolution 02-0495 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointments to the commission on disabilities of the following by Mayor Doty are confirmed:

David Freed for a term expiring November 1, 2004, replacing Barbara Hauck.

Joan J. Morrison for a term expiring November 1, 2004, replacing Bea B. Johnson.

Jason Scurlock for a term expiring November 1, 2005, replacing Irene Evans.

Resolution 02-0478 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointment by Mayor Doty of Jeffrey D. Anderson (at large) to the community development committee for a term expiring March 1, 2003, replacing Ronald A. Boshey

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

who resigned, is confirmed.

Resolution 02-0479 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointment by Mayor Doty of Louise Curnow to the environmental advisory council for a term expiring January 5, 2005, replacing Kenneth Nebel, is confirmed.

Resolution 02-0480 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointment by Mayor Doty of David Zentner to the Miller Creek joint powers board for a term expiring January 31, 2005, is confirmed.

Resolution 02-0483 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proper city officials are hereby authorized to execute three supplemental labor agreements with the city of Duluth Supervisory Association representing the supervisory unit employees, increasing the pay level for the classifications of manager, fiscal and management systems; manager, payroll and personnel systems; and manager, MIS, which agreements are on file in the office of the city clerk as Public Document No. 02-0722-14(a)(b)(c).

Resolution 02-0484 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed specifications for the new civil service classification of utility operator, which were approved by the civil service board on July 11, 2002, and which are filed with the city clerk as Public Document No. 02-0722-15, are approved; that said classification shall be subject to the city's collective bargaining unit with its basic unit employees; and that pay range for said classification shall be Range 28, \$2,902 to \$3,435 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 02-0490 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the alley between Vinland (Duke) Street and Earl Street and between 75th Avenue West and Clay Street adjoining described as the alley Block 9 and Block 10, Bayview Addition No.1; 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 2002

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 alley vacation petition at its Tuesday, July 9, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation described above and as more particularly described on Public Document No. 02-0722-16.

RESOLVED FURTHER, that the city retain the full right-of-way as a utility easement.

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

Resolution 02-0493 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of air rights in the East Superior Street and 60th Avenue East rights-of-way legally described as:

the southerly one foot six inches of East Superior Street right-of-way and the easterly one foot six inches of 60th Avenue East right-of-way, commencing from a point horizontally, one foot six inches west of, one foot six inches north of, and 18 feet vertically above the southeast intersection of these rights-of-way upward, easterly along Superior Street 67 feet six inches, southerly along 60th Avenue East 73 feet six inches along and adjoining the north and west sides of Lot 1 and adjoining the westerly 16 feet of the north side of Lot 2, Block 39, Lester Park Third Division; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its Wednesday, June 26, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation described above and as more particularly described on Public Document No. 02-0722-17.

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

Resolution 02-0501 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of the utility and pedestrian easement of vacated 44th Avenue East adjacent to 4331 Jay

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Street legally described as: the westerly 6-1/2 feet of utility and pedestrian easement of vacated 44th Avenue East adjacent to Lot 9, Block 101, London 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 Wednesday, June 26, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation described above and as more particularly described on Public Document No. 02-0722-18.

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

Resolution 02-0502 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the Duluth Economic development authority (DEDA) is hereby authorized to purchase certain tax forfeit property in St. Louis County, Minnesota, from St. Louis County for the sum of \$58,323.12, payable from Fund 0860, subject to the agreement of Northwoods Children's Services to purchase this property from DEDA, as approved by the DEDA board at its meeting of July 16, 2002, pursuant to DEDA Resolution No. 02D-43, a copy of which is on file in the office of the city clerk as Public Document No. 02-0722-19, is hereby approved.

Resolution 02-0510 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

WHEREAS, pursuant to Minnesota Statutes Annotated, Section 410.12, Subd. 7, the Charter commission has recommended to the city council that it adopt an ordinance amending sections 2, 2(A), 6, 8, 11, 14, 26, 27, 60(A), 68 and 70 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 August 12, 2002, at 7:30 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 August 12, 2002, at 7:30 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

adoption of an ordinance amending sections 2, 2(A), 6, 8, 11, 14, 26, 27, 60(A), 68 and 70 of the City Charter in the manner hereinafter set forth:

[text of proposed Ordinance No. 02-030-O]

Resolution 02-0482 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

BE IT RESOLVED, that the proper city officials are authorized to pay \$10,607.47 to Jane Levenson in settlement of all claims arising out of a sewer backup at 5409 Oneida Street on or about January 11, 2002, payment to be made from Self Insurance Fund 0610.

Resolution 02-0491 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0349 to Midway Contractors, Inc., for the construction of sanitary sewer and watermain extension on Rice Lake Road, be amended to increase the amount by \$23,300 for a new total of \$74,774, payable out of Special Assessment Fund 0410, Department/Agency 038, Organization 5344, Object 5530.

Resolution 02-0496 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Duluth Superior Erection, Inc., be and hereby is awarded a contract for the Duluth/Hermantown bikeway plan - Phase I for the engineering division in accordance with specifications on its low specification bid of \$85,210.90, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Organization 2184, Object 5530. The funding breakdown is as follows: \$68,168.72 Federal T-21; \$14,288.98 city of Duluth; \$2,753.20 city of Hermantown.

Resolution 02-0497 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

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

Front of 4314 Regent Street;

Front of 2820 Wicklow Street.

Resolution 02-0492 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are authorized and directed to enter into a grant agreement with the state of Minnesota, department of public safety, filed as Public Document

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

No. 02-0722-20, to purchase \$34,071.20 worth of decontamination equipment to be used by the fire department in response to emergency situations requiring decontamination of large numbers of people. Monies from this grant shall be deposited in Fund 010-100-1502-4230.

Resolution 02-0500 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

WHEREAS, the city is the owner of Hartley Park; and

WHEREAS, the city and Hartley Nature Center, Incorporated, first entered into a lease agreement as approved by Duluth City Council Resolution 89-0411 dated May 22, 1989; and

WHEREAS, Hartley Nature Center, Incorporated, has now secured the necessary funds to construct said nature center facility via a grant from the state of Minnesota in the amount of \$1,400,000 with matching funding from non-state sources; and

WHEREAS, state of Minnesota rules and regulations require the 1989 agreement to be updated to include such state of Minnesota mandated requirements; and

WHEREAS, this agreement, once approved, will hereafter supercede and thereby render invalid said 1989 lease agreement Numbered 15731 and approved via Resolution 89-0411.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized and directed to execute the agreement filed as Public Document No. 02-0722-21 authorizing Hartley Nature Center, Incorporated, to develop, operate and maintain a nature center building and related facilities at Hartley Park under the terms and conditions set forth in said agreement.

Resolution 02-0498 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 02-0512, by Councilor Hogg, allowing Lake Superior Center to incur non-interest bearing debt secured by new pledges and approving DEDA Resolution 02D-40, was introduced for discussion.

Councilor Gilbert stated that he will abstain from discussing or voting on the resolution.

Resolution 02-0512 was adopted as follows:

BY COUNCILOR HOGG:

BE IT RESOLVED, that the city of Duluth approves DEDA Resolution 02D-40, on file with the city clerk as Public Document No. 02-0722-22.

BE IT FURTHER RESOLVED, that notwithstanding the provisions of the operating and revenue participation agreement between DEDA, city of Duluth, Lake Superior Center and Lake Superior Center authority, city of Duluth hereby authorizes Lake Superior Center, or Lake Superior Center authority, or both, to borrow from Minnesota Power, or its affiliate, an additional amount, not to exceed \$200,000, over and above the amounts authorized in the said participation agreement, or any other agreement between the parties derived from it, and to borrow from U.S. Bank an additional amount of up to \$125,000 in excess of the original balances of the letters of credit, and city of Duluth authorizes Lake Superior Center, Lake Superior Center Authority, or both, to secure the repayment of the said Minnesota Power loan and the said U.S. Bank additional loan by pledging to that purpose contributions to the center or the authority which have been pledged but not yet received, but only such pledged contributions that exceed the value of those currently pledged to pay outstanding construction costs owed to U.S. Bank N.A. and pledged to repay

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

outstanding balances of the L.O.C.s referred to in the agreement, and only those pledged contributions reasonably estimated to provide no more than \$366,250 in unearned revenue. The city also waives its rights under the participation agreement to the extent necessary to allow the above described loan transaction to occur; however, the authorizations and waivers of this resolution are limited to the two loan transactions herein described.

Resolution 02-0512 was adopted upon the following vote:

Yeas: Councilors Bergson, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 7

Nays: None -- 0

Abstention: Councilor Gilbert -- 1

Absent: Councilor Atkins -- 1

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0487, by Councilor Stover, in the matter of the on sale intoxicating liquor license of LAC/TOM Investments, LTD, D/B/A J & J Limit Bar, 1426 Commonwealth Avenue, was introduced for discussion.

Councilor Hogg stated that the reason this resolution is before the council is because it involves a late payment, which payment and fines have since been made by the licensee. He stated that he would personally like to see the procedure changed so that when a payment is made, or is in the process of being made, that it not come before the council.

Councilor Hogg moved to return the resolution to the administration, which motion was not seconded.

Councilors agreed that this is not a criminal violation and that businesses in Duluth have a hard enough time making it without the council making it tougher on them.

Councilor Hogg's motion was seconded and unanimously carried.

- - -

Councilor Hogg moved to consider Resolution 02-0481, by Councilor Stover, ordering the improvement known as the 2003 UMD/Lower Chester III street improvement program project pursuant to Section 61(b) of the Home Rule Charter of the City of Duluth at an estimated cost of \$1,457,000, at this time, which motion was seconded and unanimously carried.

- - -

At this time, 7:30 p.m., President Ness adjourned the regular city council meeting and announced that the public hearing regarding the UMD/Lower Chester III street improvement program project (granitoid streets) would begin.

Mike Metso, city engineer, stated that the purpose of this public hearing is relative to Resolution 02-0481, which was previously introduced. He reviewed that this project was originally scheduled to be included with the 2000 street improvement project, but because of the historic nature of the street, it was postponed to explore funding options for preservation and/or restoration of all of the granitoid streets. Mr. Metso continued that in 2001 the city received federal funds of \$337,000 towards the project. He stated that earlier this year the project was withdrawn from the 2003 street improvement in hopes of obtaining additional alternative funding, but he is now recommending that the project move forward and be included in the 2003 street improvement program recognizing that funding for preservation of all of the granitoid streets will not be forthcoming. Mr. Metso explained that the project will include the granitoid reconstruction, or replication, of Irving Place from Sixth Street to Clover; Clover Street from Irving to Seventh, which is part of the triangle park area; Seventh Street from Irving to 26th Avenue East; granitoid

restoration of Seventh Street from 26th Avenue East to Wallace Avenue; and the bituminous reconstruction of Sixth Street from 24th Avenue East to Wallace Avenue, and the two blocks of 27th Avenue East from Sixth to Eights avenues east, which will replace the granitoid street because funding for replication is not available. He noted that all construction can be done in one year and that the 2003 bonding levels for the street improvement project can be increased by \$700,000 to cover all of the costs for the addition of these streets. Mr. Metso stated that on July 17, 2002, an informational public meeting was held with the neighborhood to review the project and that major concerns articulated at that meeting were the inability to preserve Sixth Street as a granitoid street, and the assessment for the restoration of the two blocks of Seventh Street from 26th Avenue East to Wallace Avenue, which includes assessments against all of the properties.

Responding to councilor questions, Mr. Metso stated assessments for this project will be billed the same amount as other street improvement throughout the city, but the concern expressed at the neighborhood meeting was that the restored streets will not be brand new, as others in the street improvement project will be, and the neighbors questioned why they should have to pay the same rate for a street that has been restored and is not brand new. He stated that it is not known what the life of a restored street will be, but that the expectation is that the life of the street will be extended somewhere between 15 to 20 years, which is similar to the worst case (bituminous), but it could be longer than that because the concrete granitoid streets have held up remarkably well and the amount of restoration that needs to be done will determine how long the street will last. Regarding assessments, Mr. Metso further stated that assessment levels, as shown at this time, are preliminary only; that they are an estimate based on all 2003 street improvement projects; that actual levels of assessments will be based on the type and amount of work completed under the project; that assessments over all will be no greater than any other 2003 street improvement project (everyone will pay the same amount); that the Seventh Street assessments could be less, or perhaps none at all, depending on the level of restoration work that is required. Regarding the process, Mr. Metso stated that he recommends proceeding with the project because it will enable the design process to begin regarding both the granitoid reconstruction and restoration; the neighborhood will be included in discussions; due to the federal funding, a historical review is required and there will be an opportunity for oversight from that perspective; updates can be provided to the council and neighborhood as appropriate; and any issues including the level of assessments for restoration work rather than reconstruction work in the area can be addressed and resolved prior to moving forward with construction of the project in 2003.

The following speakers opposed approval of various segments of this project: Greg Bachhuber; Richard Andree; and Elijah.

Reasons stated in opposition of the project were as follows: the proposed granitoid patchwork of the two blocks of Seventh Street should not be done unless there is a change in the assessments; pro-preservationists originally told residents of this segment that because of grants and other funding available for this project, proposed assessments would not be increased, but since that time, the cost of assessments per residence has increased by more than \$1,000; preservationists have misrepresented the opinions of neighborhood residents by offering results from an opinion poll that contained a misleading question; only a select few are interested in preserving the granitoid; the vast majority of residents are only interested in the granitoid if it does not involve extra assessment or public tax money; the reproduction of these streets by using modern techniques is not the same as the preservation of them, and as such, the proposed assessments should not be the same as those residences that are getting new streets; replication

of these streets will be labor intense and the proposed costs are excessive and extravagant in these days of poor economic conditions and there have been no assurances that they will not be increased by cost overruns; if assessments for the streets to be replicated are to be the same as those for a new street, then the residents expect nothing less than a new street with new base, new surface, new curb and gutter and utility repair as needed; residents across the city who are included in the 2003 street improvement project should not be subjected to higher assessments because of a pet project supported by a very few; the portion of the total surface in this two block area to be replaced is roughly ten percent, which should not qualify as an assessable item; the 1993 letter from the city assessor regarding this street improvement project stated that all street improvements will consist of construction of new base, pavement and either curb and gutter with storm sewer or drainage ditches, etc.; this portion of the project should be considered street maintenance and does not qualify for assessment because there is no new base, there would only be patching and there would be minimal amount done as far as alteration of the drainage; assessing for the work that is proposed for this project sets a precedent for future assessment of routine street maintenance. Alternative proposals were made to use all of the grant money obtained for this project to either preserve Seventh Street from 26th Avenue East to Wallace Avenue, which is the only two blocks that the city engineer feels is worth saving; or completely replacing only the lower area of the triangle park by 25th Avenue East, and a little more than a block up to 26th Avenue East, with granitoid, and doing repairs between 26th Avenue East and Wallace Avenue.

Responding to councilors, Administrative Assistant Winson, stated that there was discussion about assessments for this project remaining the same as were proposed in 1999 and 2000 no matter when this project was completed, however, without knowing how long it would take for these projects to come back, there were no assertions made because that would put the city out of its legal window for assessing the property.

Walter Broughton supported the project because it needs to be done now; in planning for this project, the city has taken everyone affected by it into consideration.

Carolyn Sundquist stated that in approving this project, the city council should insure that the project is built to the proper historical standards as laid out in the city's consultant's report presented last year, which she reviewed at length.

Judith Babst; Anita Stech and Buzz Palmer stated that Sixth Street is the oldest segment of granitoid in the city and for this reason requested the council to allow for the option of Sixth Street to be preserved in case funding does become available. They encouraged the city to move forward with the project.

- - -

At this time, 8:15 p.m., President Ness closed the public hearing and the regular meeting was resumed.

- - -

Councilor Gilbert supported the project and commended and thanked Carolyn Sundquist and Mr. Metso and his staff for the work they performed.

Responding to councilors, Mr. Metso noted that approval of this resolution will allow the design phase to begin, and that any and all suggested alternatives will be studied at that time with the input of residents and that the council will be updated regularly. With regard to assessments, he stated that those will also be addressed in the future.

Resolution 02-0481 was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth,

the city council hereby orders the improvement, to city of Duluth standards, of those streets, avenues and parkways set forth in Public Document No. 02-0722-25 on file with the office of the city clerk; that the costs of said improvement estimated at \$1,457,000 shall be paid from the Street Improvement Fund 0440 and that one-fourth or less of said costs be levied against the property specifically benefitted by said improvements.

FURTHER RESOLVED, that the engineering staff shall meet and confer with interested members of each neighborhood involved in the program to gather public input and address public concerns involving various street design elements including but not limited to street width, boulevard design and width, tree removal and replacement, driveways and traffic patterns.

Resolution 02-0481 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

RESOLUTION RECONSIDERED

Councilor Stewart moved to reconsider Resolution 02-0343, denying work permit application of Spirit Ridge, LLC, related to Spirit Ridge project, which motion was seconded and unanimously carried.

Councilor Stewart introduced the resolution and stated that it is being reconsidered to override the mayor's veto.

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

The following speakers spoke for overriding the mayor's veto: Benace, Maska Benay, Jeff Loudermilk, Jerry Pollard, Warner Wirta, Michaela Morrow, John Gordon, K.L. Lewis, Alberta Fairbanks, Greg Price, Phil Pruss, Sharon Stephens, legal chair for the Sierra Club, Nancy Nelson, speaking on behalf of the Skyline Planning and Preservation Alliance, Doug Happy, Joel Sipress, Joan Asaewsk, Terry Brown, speaking for the Duluth Public Policy Alliance, Dan Conley, Peggy Marin, C. J. Bird, Christina Wagner, Iver Bogen, Christina Gallup, Eugene Bigboy, Don Anderson and William Bird, Jr.

Some of the reasons cited were: Spirit Mountain is still used for sacred ceremonial and cultural purposes by Anishinaabeg people; the Anishinaabeg have a Madoodoswan (church) at Spirit Mountain which is the same as a Christian church of God and should not be destroyed or taken away from the people it serves; the sacred legacy that Spirit Mountain brings to all people will be irreparable and permanently destroyed forever if this project goes forward; this preserved, unspoiled sacred area has more value to the community if left untouched; it is sacrilegious to use this land for a golf course; to use alternative suggested sights will cost the taxpayer less and retain a beautiful piece of property; ancestral burial grounds should be protected and taken as seriously as cemeteries; the U. S. Steel site has the utilities and Super Funds available; the federal government has not given permission for this to happen; at all past meetings, there have been more speakers against this project; Duluth's prosperity will be far greater by keeping Spirit Mountain as it is; this is not opposition to golf itself; if spirit mountain is violated it will be permanent and irreparable; the graves of their ancestors are taken very seriously; the mayor's veto if allowed to stand would approve a project that the majority of the councilors are not in favor of; for the mayor to veto this resolution is to take away the power of the majority of the council; this is an old growth forest that needs to be preserved so future generations can enjoy it; that the council has the legal authority to state why this project should not proceed and would be upheld in the courts; the tree commission recommended five years ago that this site is unreplaceable resource; "Outdoor" magazine has recognized the uniqueness and beauty of this site; the growth of golf has declined; Spirit Mountain itself was a bad decision and this golf course is another bad decision

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

idea, other grants are being frozen because of previous actions at spirit mountain; the lease revenue proposed by this project is very low; there is only three councilors who really support this project; this council has in the past and should now, consider the social injustice of not supporting the native Americans; the concept of indicating a small area of an Indian burial ground is a token crumb and would only produce grave robbers; those opposing this development will institute their own lawsuit.

Clayton Cich and Sharla Gardner cited reasons of: there is room for both sides of issue and a need for businesses to be brought to this community for the young people to stay here, that without the resolution approving the permits, with certain conditions and safeguards, the land itself would be devastated without an environmental water filtration system to catch the pesticide runoff of a golf course, that an environmental worksheet needs to be required and that all federal approvals must be required.

- - -

A motion to suspend the rules to extend the council meeting to 11:30 p.m. was made, seconded and unanimously carried.

- - -

Councilors reviewed at length the history and many issues associated with the resolution.

The resolution failed upon the following vote [*six votes needed to override Mayor Doty's veto*]:

Yeas: Councilors Bergson, Gilbert, Stewart, Stover and President Ness -- 5

Nays: Councilors Hogg, Stenberg and Stauber -- 3

Absent: Councilor Atkins -- 1

- - -

BY COUNCILOR STEWART:

RESOLVED, that the following planning commission appointments by Mayor Doty are confirmed:

Gilbert W. Harries for a term expiring December 31, 2004, replacing Thomas Shefchik who resigned.

Heather Rand for a term expiring December 31, 2005, replacing Ruthann Schnell.

John Hinzmann, Jr., for a term expiring December 31, 2003, replacing Thomas Krzewinski who resigned.

Resolution 02-0455 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0513, by Councilor Gilbert, reciting action taken on Resolution 02-0343, was introduced for discussion.

Councilor Stenberg moved to amend the resolution by adding the words:

"BE IT FURTHER RESOLVED, that this amendment is not intended to, or does not override the mayor's veto," which motion was seconded and failed upon the following vote:

Yeas: Councilors Stauber, Stenberg and Stewart -- 3

Nays: Councilors Bergson, Gilbert, Stover and President Ness -- 4

Abstention: Councilor Hogg -- 1

Absent: Councilor Atkins -- 1

Resolution 02-0513 was adopted as follows:

BY COUNCILOR GILBERT:

BE IT RESOLVED that the city council declares that on July 8, 2002 the city council took

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

up Resolution 02-0343, which resolution denied work permits for a project at Spirit Mountain for the reasons stated in the resolution. Resolution 02-0343 passed the council by a vote of five in favor, four against.

Resolution 02-0513 was adopted upon the following vote:

Yeas: Councilors Bergson, Gilbert, Stewart, Stover and President Ness -- 5

Nays: None -- 0

Abstentions: Councilors Hogg, Stauber and Stenberg -- 3

Absent: Councilor Atkins -- 1

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of all streets and utility easements within the plat of Greenbriar Hills, except MacFarlane Road, and except the 240 feet MP&L (Minnesota Power) easement, legally described as: Cynthia Lane, Lois Avenue, Rogers Way and Blackman Avenue in the Plat of Greenbriar Hills; and the all those utility easements in Block 6 and Block 7, in the Plat of Greenbriar Hills; 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 Tuesday, July 9, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the streets and utility easements described above, and as more particularly described on Public Document No. 02-0722-23.

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

Resolution 02-0503 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0509, by Councilor Stenberg, authorizing DEDA's purchase of Lots 5 - 9, Block 7, Portland Division, pursuant to DEDA Resolution 02D-42, was introduced for discussion.

Councilor Gilbert stated that the purchase of this building is a reactionary move by DEDA and is being unnecessarily rushed through when there is no comprehensive plan developed for the medical district.

Resolution 02-0509 was adopted upon the following vote:

Yeas: Councilors Bergson, Hogg, Stauber, Stenberg and Stewart -- 5

Nays: Councilors Gilbert, Stover and President Ness -- 3

Absent: Councilor Atkins -- 1

[Editor's note: Resolution 02-0509 was vetoed by Mayor Doty on August 12, 2002 (Public Document No. 02-0812-12).]

- - -

BY PRESIDENT NESS:

WHEREAS, the city of Duluth operates a natural gas utility and a water utility which sells

at retail to consumers; and

WHEREAS, questions have arisen about the practices and procedures of the utility in regard to the required customer security deposits;

NOW, THEREFORE, BE IT RESOLVED, that the city council establishes the city of Duluth gas and water utility security deposit task force, subject to the following requirements:

(a) The task force shall consist of five members. The chair of the task force shall be Councilor Stover, chair of the public works and utilities committee. Four members shall be appointed by the city council president. The director of public works and utilities, or his designee, shall be an ex-officio member;

(b) The task force shall act by majority vote, and according to Robert's Rules of Procedure;

(c) The term of existence of the task force shall be 11 weeks from the date of appointment of the last member;

(d) The task force shall have at least three meetings and shall receive public comment at at least one meeting;

(e) The city administration shall provide support staff and meeting facilities for the task force;

(f) The task force shall investigate the policies and practices of the utilities in regard to requirements and procedures for customer security deposits. It shall receive reports and information from the department of public works and utilities and from other sources. The task force shall report to the city council its findings and recommendations.

Resolution 02-0508 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0499, by Councilor Stauber, authorizing agreement with the state of Minnesota for receipt by the city of up to \$1,400,000 for construction of Hartley Nature Center and authorizing the commitment of required matching funds not to exceed \$1,400,000, was introduced for discussion.

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

Bill Mayer, executive director of Hartley Nature Center, stated that it is very important for the city to accept this matching grant to fulfill the completion of this project.

Resolution 02-0499 was adopted as follows:

BY COUNCILOR STAUBER:

WHEREAS, the city of Duluth and other interested parties have taken action to create the Hartley Nature Center on land owned by the city of Duluth; and

WHEREAS, by Laws of Minnesota, 1998, Chapter 404, Section 7, Subdivision 30, the state legislature conditionally appropriated \$1,500,000 from the general fund to be used by the commissioner of natural resources for a grant to the city of Duluth for the purpose of constructing capital improvements to the Hartley Nature Center; and

WHEREAS, the amount of this appropriation that is available is now \$1,400,000, which funds are not available until an equal amount has been committed from non-state sources; and

WHEREAS, the state legislature, by making the said appropriation, did not make or imply any commitment for the future of additional funding for development, operation or maintenance of Hartley Nature Center; and

WHEREAS, the city and others have a plan and budget for development of Hartley Nature Center, as shown on the schedule and budget on file with the clerk as Public Document

No. 02-0722-26(a), and they have a plan and ability to provide for continuing operation as shown by the proposed lease between the city and Hartley Nature Center; and

WHEREAS, the availability of matching funds required by the conditional appropriation has been shown to the commissioner of natural resources, and the city has authority to enter into a grant agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute and implement a grant agreement, in substantially the same form and containing the terms of the agreement on file with the clerk as Public Document No. 02-0722-26(b), for the development of Hartley Nature Center.

BE IT FURTHER RESOLVED, that the proper city officials are authorized to cause to be expended on the project matching funds, as shown in the schedule and budget on file as Public Document No. 02-0722-26(a), including city funds shown thereon in an amount not to exceed \$1,400,000.

Resolution 02-0499 was unanimously adopted.

Approved July 22, 2002

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR ATKINS

02-034 - AN ORDINANCE ELIMINATING THE LIMITATION ON THE NUMBER OF TAXI LICENSES ISSUED IN THE CITY OF DULUTH; REPEALING SECTION 47-17.4 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR ATKINS

02-035 - AN ORDINANCE PROVIDING FOR TEN ADDITIONAL TAXI LICENSES IN THE CITY OF DULUTH; AMENDING SECTION 47-17.4 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR STENBERG

02-031 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO JO-ED PARTNERSHIP FOR AN AWNING OVER THE RIGHT-OF-WAY OF 20TH AVENUE WEST FOR THE HOBART BUILDING AT 1932 WEST MICHIGAN STREET (KLEIMAN).

- - -

BY COUNCILOR STENBERG

02-033 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 33 AND 36 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S SUBURBAN TO R-1-A SINGLE FAMILY RESIDENTIAL, 50 ACRES OF PROPERTY LOCATED NORTHWESTERLY OF THE INTERSECTION OF BLACKMAN AVENUE AND MACFARLANE ROAD (HOVLAND/ GREENBRIAR HILLS, FN 02059).

- - -

BY PRESIDENT NESS

02-030 - AN ORDINANCE PERTAINING TO THE 1912 CHARTER OF THE CITY OF DULUTH, AS AMENDED, AMENDING SECTIONS 2, 2(A), 6, 8, 11, 14, 26, 27, 60(A), 68 AND 70.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BY PRESIDENT NESS

02-032 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOT 27, BLOCK 1, LINCOLN PARK TERRACE TO THE STATE OF MINNESOTA FOR A CONSIDERATION OF \$500.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR GILBERT

02-029 (9550) - AN ORDINANCE AUTHORIZING AGREEMENT FOR CONVEYANCE OF CERTAIN PROPERTY IN DULUTH HEIGHTS TO BILLMAN CONSTRUCTION, INC., FOR THE DEVELOPMENT OF LOW AND MODERATE INCOME AND MARKET RATE HOUSING AS PART OF A PROJECT INCLUDING HABITAT FOR HUMANITY-DULUTH, INC.

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

- - -

BY COUNCILOR STENBERG

02-027 (9551) - AN ORDINANCE PERTAINING TO LAND USE IN THE CITY OF DULUTH, CREATING AN S-2 SUBURBAN RESIDENTIAL DISTRICT; ADDING A NEW DIVISION 2 TO ARTICLE VII AND AMENDING SECTIONS 50-2, 50-20.1, 50-23, 50-36.2, 50-55 AND 50-56, OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY COUNCILOR STENBERG

02-028 (9552) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 45, 47, 48 AND 49, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-A AND R-1-B SINGLE FAMILY RESIDENTIAL AND S SUBURBAN TO S-2 SUBURBAN RESIDENTIAL, PROPERTIES LOCATED BETWEEN THE LESTER RIVER AND THE NORTHERN CITY LIMITS, BETWEEN THE CENTERLINE OF TRUNK HIGHWAY 61 AND LAKE SUPERIOR (DULUTH/NORTH SHORE SANITARY DISTRICT).

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

[Editors note: Ordinance 9552 was reconsidered at the August 12, 2002, council meeting.]

- - -

The meeting was adjourned at 11:30 p.m.

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

- - -

ORDINANCE NO. 9550

BY COUNCILOR GILBERT:

AN ORDINANCE AUTHORIZING AGREEMENT FOR CONVEYANCE OF CERTAIN PROPERTY IN DULUTH HEIGHTS TO BILLMAN CONSTRUCTION, INC., FOR THE DEVELOPMENT OF LOW AND MODERATE INCOME AND MARKET RATE HOUSING AS PART OF A PROJECT INCLUDING HABITAT FOR HUMANITY-DULUTH, INC.

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Section 1. That the proper city officials are hereby authorized to enter into a development agreement, a copy of which is on file in the office of the city clerk as Public Document No. 02-0722-27, with Billman Construction, Inc., and Habitat for Humanity-Duluth, Inc., pursuant to which the city will convey by quit claim deed the property in St. Louis County, Minnesota, described as Lots 11 through 19 inclusive, Block 12, and Lots 2 through 21 inclusive, Block 13, all in DULUTH HEIGHTS, Sixth Division; and also described in said agreement to Billman who will join with Habitat for Humanity-Duluth in developing said property and other adjacent property for low and moderate income housing and market rate housing.

Section 2. That said proper city officials are authorized to execute all documents necessary with regard to said conveyance.

Section 3. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: September 1, 2002)

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

Yeas: Councilors Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Nays: None -- 0

Absent: Councilor Atkins -- 1

Passed July 22, 2002

Approved July 22, 2002

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9551

BY COUNCILOR STENBERG:

AN ORDINANCE PERTAINING TO LAND USE IN THE CITY OF DULUTH, CREATING AN S-2 SUBURBAN RESIDENTIAL DISTRICT; ADDING A NEW DIVISION 2 TO ARTICLE VII AND AMENDING SECTIONS 50-2, 50-20.1, 50-23, 50-36.2, 50-55 AND 50-56, OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 50-2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-2. Districts enumerated.

For the purposes of this Chapter, the city is hereby divided into districts, of which there shall be 15 in number, as follows:

- (a) S suburban district;
- (b) S-2 suburban residential district;
- (c) R-1-a one-family residential district;
- (d) R-1-b one-family residential district;
- (e) R-1-c one-family residential district;
- (f) R-2 two-family residential district;
- (g) R-3 apartment residential district;
- (h) R-4 apartment residential district;
- (i) C-1 commercial district;
- (j) C-2 highway commercial district;
- (k) C-3 shopping center district;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

- (l) C-4 business center commercial district;
- (m) M-1 manufacturing district;
- (n) M-2 manufacturing district;
- (o) W-1 waterfront district.

Section 2. That Section 50-20.1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

	Minimum lot area per family:		Minimum lot frontage (in feet):		Minimum depth front yard (in feet)	Minimum width of:		Minimum depth of rear yard (in feet)	Maximum height of buildings (in feet)
	1* sewered areas	2* unsewered areas	1* sewered areas	2* unsewered areas		either side yard (in feet)	aggregates of side yards (in feet)		
Sec. 50-20.1.									
S suburban	5 acres (see Sec. 50-20.12)		250		60	25	50	50	30
S-2 suburban residential	2 acres	2 acres	100	200	35	10	20	25	30
R-1-a - 1 family residential	14,000 sq. ft.	2 acres	75	200	35	8	18	25	30
R-1-a - 2 family residential	10,500 sq. ft.	2 acres	120	200	35	10	20	25	30
R-1-b 1 family residential	1F., 7,000 sq. ft.	2 acres	50	200	30	6	14	25	30
	2F., 3,000 sq. ft.	2 acres	90	200	30	8	18	25	30
R-1-c 1 family residential	1F., 5,000 sq. ft.	2 acres	50	200	25	6	14	25	30
	2F., 4,500 sq. ft.	2 acres	75	200	25	8	18	25	30
*1 For parcels which are served with municipal public sewer service. *2 For parcels which are not served with municipal public sewer service.									

Section 3. That Section 50-23 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-23. Same--Side yards.

(a) On a corner lot the minimum depth of the yard between the side street property line and the structure, shall be not less than that shown in the table below:

	Zoning districts	
	in S-2 and R-1-a	in R-1-b through R-4
Structure use		
For dwellings	25 feet	15 feet
Detached accessory buildings and front wall of attached garages	25 feet	20 feet
Educational, religious, institutional and recreational buildings	35 feet	25 feet

provided, however, that the buildable width of a lot of record on July 14, 1958, shall not be reduced to less than 32 feet (old Section 19.3.1);

(b) No accessory building shall project beyond a required yard line along any street;

(c) Where dwelling units are erected above commercial establishments no side yard is required except when required for the commercial building on the side of a lot adjoining a residential district;

(d) A porte-cochere, carport or canopy may project into a required side yard; provided, that every part of such porte-cochere, carport or canopy is unenclosed, except for necessary structural supports, and not less than five feet from any side lot line;

(e) For the purpose of side yard regulations, a two-family dwelling, multiple dwelling or townhouse dwelling shall be considered as one building occupying one lot;

(f) Where a lot of record on July 14, 1958, is less than 50 feet in width no side yard shall be less than five feet;

(g) The ordinary projections of sills, belt courses, cornices, eaves, awnings, overhangs and ornamental features may extend to a distance not to exceed 18 inches into a required side yard;

(h) Where no garage facilities are provided and the alley is not developed for access at the time the dwelling is constructed in an R-1-b, R-1-c or R-2 district, there shall be provided one side yard of a minimum of nine feet for a driveway and the other side yard shall have a minimum width of five feet;

(i) On the lots in the R-1-b, R-1-c or R-2 districts having a frontage of 50 feet or less upon which a garage is provided the aggregate of the side yards may be 12 feet.

Section 4. That Section 50-36.2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-36.2. Same--Eligibility.

The owner of any tract of land comprising an area of more than four and less than 20 acres may submit to the city council a plan for the use and development of all such tracts for one-family homes, two-family homes, townhouses, and/or multiple dwellings containing no more than eight dwelling units, provided that such tracts are located within the S suburban, S-2 suburban residential district, R-1 one-family residential districts,, the R-2 two-family residential district, R-3 apartment residential or a combination of such districts. No use or development shall be permitted except in conformity with a specific plan complying with the standards and requirements hereinafter set forth. With respect to low density planned development, such standards and requirements shall supersede any inconsistent standards or requirements set forth elsewhere in this Chapter.

Section 5. That the present text of Article VII of Chapter 50 (sections 50-51 through 50-54) be designated Division 1 of Article VII and that the title of Article VII of Chapter 50 shall be "Article VII. S Suburban Districts."

Section 6. That a new Division 2 be added to Article VII of Chapter 50 of the Duluth City Code, 1959 , as amended, be amended to read as follows:

Division 2. S-2 Suburban Residential Districts.

Sec. 50-55. Generally.

The regulations set forth in this Article or set forth elsewhere in this Chapter, when referred to in this Article, are the regulations in the S-2 suburban residential district.

Sec. 50-55.1. Permitted uses.

A building or premises in the S-2 suburban residential district shall be used only for the following purposes:

- (a) One-family dwelling;
- (b) Agricultural uses primarily for home consumption, such as domestic gardening, berry or bush crops, tree crops, flower gardening, nurseries, orchards, aviaries and apiaries, including a greenhouse, but not including a salesroom or roadside stand;
- (c) Publicly owned or operated forest reserve, park, playground or community building, museum, library or art gallery; provided, that any such building shall be located not less than 25 feet from any side lot line;
- (d) Church or other place of worship or Sunday school; provided, that any such building shall be located not less than 25 feet from any side lot line;
- (e) Public school, elementary and high, university, college, parochial school or private school having a curriculum similar to that ordinarily given in public schools; provided, that any such building shall be located not less than 40 feet from any side or rear lot line; and provided further, that there shall be no rooms regularly used for housing or sleeping purposes, except staff quarters when located on the premises for the school;
- (f) Golf club grounds with an area of not less than 30 acres. A miniature course or practice driving tee operated for commercial purposes is not permitted;
- (g) Home occupation;
- (h) Subject to the provisions of Section 50-24, accessory building or use, including a private garage customarily incident to the above uses, but not involving the conduct of a business; provided, that any such accessory building shall be erected at the same time or after the construction of the principal building;
- (i) Residential boat dockage under the following conditions:
 - (1) General provisions:
 - (A) Dockage of boats owned and primarily used by a resident of the property in question is a permitted accessory use to the primary residential use and shall not be limited in number;
 - (B) The rental or use of boat dockage spaces on property on which there is a residential structure by owner of boats not residing on the property in question is a permitted accessory use to the primary residential use, but only if such rental or use is limited to two boats, for every residence having frontage on an improved street;
 - (C) The boat dockage use of a property that is not residentially developed is permitted as a principal use provided that:
 - 1. The use is limited to one boat for each lot or group of contiguous lots in the same ownership; and
 - 2. The boat is owned and primarily used by the owner of the property;
 - (2) Off street parking. For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other off street parking spaces required by other legal uses of the property, such spaces to be constructed in accordance with Article III (off street parking and loading requirements) of this Code [Chapter];

(3) Proof of adherence to Code. At the request of the city building inspector or zoning inspector, the owner of property shall promptly provide boat registration or other documentary evidence to prove adherence to this Code;

(4) Commercial use prohibitions. No buildings other than residential or residential accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays, and other commercial uses shall be permitted;

(j) One wind energy conversion system shall be permitted as an accessory use, provided that the tower shall be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower, but in no case shall tower height exceed 130 feet;

(k) Bed and breakfast inn containing no more than 12 habitable units, provided a special use permit is secured according to the procedures set forth in Article IV.

Sec. 50-55.2. Height and area regulations.

The height and area regulations set forth in Article II of this Chapter shall be observed in the S-2 suburban residential district.

Sec. 50-55.3. Parking requirements.

Off street parking space shall be provided in the S-2 suburban residential district in accordance with the requirements for specific uses set forth in Article III of this Chapter.

Section 7. That the present text of Section 50-55 be added to Section 50-56 and that Section 50-56 of Chapter 50 of the Duluth City Code, 1959 , as amended, be amended to read as follows:

Sec. 50-56. Permitted uses.

The regulations set forth in this Article or set forth elsewhere in this Chapter, when referred to in this Article, are the regulations in the R-1-a one-family residential district.

A building or premises in the R-1-a one-family residential district shall be used only for the following purposes:

(a) All uses permitted in the S-2 suburban residential district;

(b) Two-family dwelling, provided that such dwelling is designed to protect and reflect the character of one-family residences. To this intent, in addition to those regulations otherwise set forth in this Code, the following requirements shall be observed:

(1) Single front entrance. Access to the second dwelling unit shall be either through a common hallway within one front entrance, or by means of a separate entrance at the side or rear of the building;

(2) Exterior stairways. No exterior stairways with a total vertical rise greater than five feet shall be permitted;

(3) Third floor exits. Any dwelling unit or portion thereof which is located on the third floor shall have two separate means of exit;

(4) Roomers. Any two-family dwelling located in a one-family residential district shall be for the exclusive occupancy by two families and no roomers shall be permitted;

(5) Roof character. Except for buildings in existence on May 11, 1980, and buildings constructed after May 11, 1980, which have been put to a lawful use other than a two-family dwelling for a minimum of five years, roofs shall have a minimum slope of 2-1/2 feet vertical rise to 12 feet of run;

(6) Minimum dwelling size. No two-family dwelling within a structure erected after May 11, 1980, shall contain a total of less than 1,800 square feet of floor area other than garages or utility rooms or basement or attic space not used for living quarters;

(7) Dispersion of dwellings. No two-family dwelling shall be constructed and no single family dwelling shall be converted to a two-family dwelling within a distance of 300 feet from any other two-family dwelling or multiple family dwelling located within the same block; provided, that no more than one two-family dwelling or multiple family dwelling shall be permitted within a block containing an area of 120,000 square feet or less;

(8) Required drawings. In addition to required plot plans, applications for building permits shall be accompanied by a complete set of four building elevations drawn at a scale of not less than 1/8 inch equals one foot, such elevations to indicate the size and location of all windows and doors, and the type of exterior materials;

(9) Limitations on variances. Notwithstanding its power to grant variances as set forth in Section 50-47 of this Code, the board of zoning appeals shall not grant any variance from the requirements for the allowance of two-family dwellings in a one-family residential district; provided that such board may grant a variance reducing by not more than ten percent the minimum dimensional requirements for allowance of a two-family dwelling in a one-family residential district if the findings required by Section 50-47(b) of this Code are made by such board;

(c) Residential care facility serving six or fewer persons;

(d) Day care facility serving 12 or fewer persons and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to serve 14 or fewer children;

(e) Residential care facility serving seven or more persons, provided a special use permit is secured according to the procedures set forth in Article IV;

(f) Elderly congregate housing facility containing 12 or fewer habitable units, provided a special use permit is secured according to the procedures set forth in Article IV;

Section 8. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 1, 2002)

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

Yeas: Councilors Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Nays: None -- 0

Absent: Councilor Atkins -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 22, 2002
Approved July 22, 2002
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9552

BY COUNCILOR STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 45, 47, 48 AND 49, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-A AND R-1-B SINGLE FAMILY RESIDENTIAL AND S SUBURBAN TO S-2 SUBURBAN RESIDENTIAL, PROPERTIES LOCATED BETWEEN THE LESTER RIVER AND THE NORTHERN CITY LIMITS, BETWEEN THE CENTERLINE OF TRUNK HIGHWAY 61 AND LAKE SUPERIOR (DULUTH/NORTH SHORE SANITARY DISTRICT).

The city of Duluth does ordain:

Section 1. Section 1. That Plate Nos. 45, 47, 48 and 49 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(MAPS)

Section 2. That this S-2 zone is subject to the provision that, notwithstanding the terms of S-2 suburban residential district, any lot of record on the effective date of this ordinance located north of Superior Street and west of 79th Avenue East, which is held under separate ownership from adjoining lots and which has an area of 7,000 square feet or more, may nonetheless be used in accordance with terms of the S-2 zone; further, any lot of record on the effective date of this ordinance located in the balance of the zone, which is held under separate ownership from adjoining lots and which has an area of 14,000 square feet or more, may nonetheless be used in accordance with terms of the S-2 zone.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 29, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed July 22, 2002

Approved July 22, 2002

GARY L. DOTY, Mayor

[Editors note: Ordinance 9552 was reconsidered at the August 12, 2002, council meeting.]

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, August 8, 2002, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Stauber, Stenberg, Stewart, Stover and President Ness -- 6

Absent: Councilors Atkins, Bergson and Hogg -- 3

- - -

BY COUNCILOR GILBERT:

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

Section 1. Recitals.

1.01 Irving Townhomes, LLC, a Minnesota limited liability company (the company), is proposing to construct 44 rental townhouse units (the project). The company has proposed that the maximum rents on 20 percent of the units will not exceed the department of housing and urban development area fair market rents and that not less than 20 percent of the units will be made available only for individuals or families whose income does not exceed 50 percent of area median income, adjusted for family size.

1.02 The company has informed the city that the project will not be restricted to persons who are 55 years or older.

1.03 Thirty units of the project are located on the north side of Nicollet Street bordered by 57th Avenue West and 14 units of the project are located at the intersection of Ramsey Street and 53rd Avenue West in the city.

1.04 The company represents that the economic feasibility of the project will be greatly enhanced through the issuance of revenue bonds by the city and, therefore, requests that the city declare its present intent to issue its multifamily housing revenue bonds to provide funds to finance the project.

1.05 The city is authorized to issue its revenue bonds for such purpose pursuant to Minnesota Statutes Chapter 462C, as amended (the Municipal Housing Programs Act).

1.06 The proposed project is a multifamily housing development under Minnesota Statutes, Section 462C.02, Subd. 5.

1.07 For such revenue bonds to be generally exempt from federal income tax, bond allocation authority must be obtained from the state of Minnesota pursuant to Minnesota Statutes Chapter 474A (the Minnesota Bond Allocation Act).

Section 2. Declaration of intent. It is hereby declared to be the intention of the council to issue revenue bonds in the principal amount of not to exceed \$6,000,000 on behalf of the company for the purpose of financing the costs of the project (the bonds). Preliminary approval is hereby given for the Bonds to be issued for the project, subject to satisfying the requirements of the Municipal Housing Programs Act and obtaining bond allocation pursuant to the Minnesota Bond Allocation Act.

Section 3. Authorization to staff. The administrative staff of the city and their agents are hereby authorized to take such further actions as are necessary to carry out the intent and purpose of this resolution and the requirements of the Municipal Housing Programs Act and the Minnesota Bond Allocation Act. All details of and conditions precedent to the issuance of the bonds and the provisions for payment thereof shall be subject to final approval of the council. The bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the city, and the bonds, when, as and if issued, shall recite in substance that the bonds, including interest thereon, are payable solely from the revenues of the project received from the company and the property pledged to the payment of the bonds and further, that the bonds do not

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

and will not constitute a debt of the city within the meaning of any constitutional or statutory limitation.

Section 4. Housing plan. The city's manager of community development or his designee shall arrange for preparation of a housing plan for the project, for a public hearing on the proposed plan, the project and financing and shall cause the required notices of public hearings to be prepared and published.

Section 5. Declaration under federal reimbursement rules. This resolution constitutes a declaration of official intent under U.S. Treasure Regulations, § 1.150.2.

Resolution 02-0547 was unanimously adopted.

Approved August 8, 2002

GARY L. DOTY, Mayor

- - -

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

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 12, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Absent: Councilor Bergson -- 1

- - -

The minutes of the city council meeting held on June 24, 2002, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0812-01 Bobcat of Duluth, Inc., et al. (five signatures), submitting petition to reclassify from S to M-1 property adjacent to Jehovahs Witness Building at 4602 Arrowhead Road. -- Assessor

02-0812-02 Boben Enterprises, LLC, submitting petition for concurrent use permit to provide adequate ventilation through the eaves in attic space at 1602 Commonwealth Avenue. -- Planning commission

02-0812-03 Chris and Julie Hussey submitting petition to construct 125 lineal feet of watermain along 96th Avenue West northerly to Peary Street. -- Assessor

02-0812-04 James J. Lattner submitting petition to vacate Lloyds Division of West Duluth Alleyway dividing Blocks 15 and 20 and the street between Block 20 and Block 23. -- Assessor

02-0812-05 Michelle K. Nelson, et al. (eight signatures), submitting petition to vacate the alley located in Block 1, Clague and Prindles Addition Duluth. -- Assessor

02-0812-06 Earl Richards submitting petitions to vacate: (a) The stormwater easement over Outlot A, Richards' First Addition; (b) Northerly ten feet of Outlot A in Arrowhead Second Addition except the easterly 22 feet of the north 12 feet six inches of Outlot A in Arrowhead Second Addition. -- Assessor

02-0812-07 Mary and Joseph Sitek, Jr., submitting: (a) Petition; (b) Waiver agreement for permanent improvements for Hartley Estates, Third Addition. -- Assessor and engineering division

02-0812-09 Spirit Valley Citizens Neighborhood Development Association (SVCNDA) submitting petition to reclassify the Ramsey Village area from R-2, R-3 and R-4 to TND. -- Assessor

02-0812-08 James and Gail Sundstrom submitting petition to construct 110 lineal feet of sanitary sewer within North Central Avenue alley beginning at the intersection of Albion Street and extending northerly. -- Assessor

02-0812-20 Evensen Dodge, Inc., submitting presale analysis in connection with issuance of \$7,250,000 G.O. utilities revenue bonds, Series 2002C; \$3,860,000 G.O. street improvement bonds, Series 2002D; \$1,085,000 G.O. improvement refunding bonds, Series 2002E; \$635,000 G.O. tax increment refunding bonds, Series 2002F (02-0521R, 02-0522R, 02-0523R, 02-0524R). -- Received

02-0812-33 Greg Price submitting communication regarding protection of the Lake Superior watershed (02-0520R). -- Received

02-0812-32 Jan Smith submitting communication regarding the Denfeld High School resident permit parking zone (02-0550R). -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

02-0812-10 St. Louis County Heritage and Arts Center submitting applications for facilities rental during which alcoholic beverages will be served from:

- (a) Jennifer Rogers on August 2, 2002;
- (b) Lisa Grube on August 3, 2002;
- (c) Jody Warnygora on August 10, 2002;
- (d) Wendy Kurtz and John Mooney on August 16, 2002;
- (e) Rana Kostecki and Joe Browning on August 17, 2002;
- (f) Michelle Lyman and Chad Pierson on August 23, 2002;
- (g) Melissa Scanlon on August 24, 2002;
- (h) Amanda Halstensgard on August 31, 2002. -- Received

02-0812-31 The following submitting communications regarding building demolitions (02-0301): (a) Ed Kale; (b) Leif and Eric Ringsred. -- Received

02-0812-11 The following submitting communications regarding the work permit for a proposed golf course at the Spirit Mountain recreation area (02-0343R): (a) Fond du Lac Reservation business committee; (b) Paul Moss. -- Received

02-0812-30 The following submitting communications regarding the operation of the fog horn (02-0518R): (a) Elsie Jean M. Austin; (b) Eric Dings; (c) David Hoeft; (d) Sylvia Kinney; (e) Lucy Kragness; (f) Dennis McManus; (g) Ellen Ramsey; (h) Andrew Slack; (i) TOOT. -- Received

- - -

REPORTS OF OFFICERS

02-0812-12 Mayor Doty submitting veto of Resolution 02-0549 authorizing DEDA's purchase of Lots 5-9, Block 7, Portland Division pursuant to DEDA Resolution 02D-42. -- Received

02-0812-13 Assessor submitting letters of sufficiency to: (a) Construct a residential street and sanitary sewer, water and gas mains in 85th Avenue West to serve Lot 1, Block 2 and Lots 1 and 2, Block 1 in Wahlstrom Division Second Addition; (b) Reclassify from S to M-1 the property attached to Jehovah Witness 249.65 foot frontage on Arrowhead Road. -- Received

02-0812-21 Building safety division submitting appeal of the building appeal board decision to deny an appeal of the May 24, 2002, order of condemnation for human habitation and order of rental license suspension for property located at 1107 87th Avenue West (Williams). -- Committee 2 (Physical development)

02-0812-14 Community development and housing division manager submitting the HRA report for the HUD CD funded housing rehabilitation program for May and June 2002. -- Received

02-0812-15 Parks and recreation department director submitting: (a) Lease agreement with Pizza Lucé for Lake Place vending, pursuant to Section 2-31 of the Duluth City Code. -- Mayor for execution (b) Lake Superior zoological society minutes of May 22, 2002, meeting. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-0812-16 Civil service board minutes of June 4, 2002, meeting. -- Received

02-0812-17 Duluth airport authority minutes of June 28, 2002, meeting. -- Received

02-0812-18 Duluth/North Shore sanitary district board minutes of July 9, 2002, meeting. -- Received

02-0812-19 Housing and redevelopment authority of Duluth minutes of May 28, 2002, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Greg Price stated that there are huge manmade pools of water created from the dredge spoils of stagnant water that can be seen from the Bong Bridge, and then to the east in the willow grove there are also ponds that act as breeding grounds for millions of mosquitoes, which is cause for concern because of the spreading of the West Nile disease. He stated that there is an environmental trust fund available for the city to apply for funds to build Martin bird houses to alleviate the mosquito population in those areas.

- - -

Peggy Marrin reviewed patterns of actions by the administration and others taken from 1996 to the present in order to move the Spirit Mountain project forward. She offered her opinion as to why she believes actions were taken in the sequence that has been presented to the council. Ms. Marrin urged councilors to take a good look at how their present and future actions will affect this area.

- - -

K. L. Lewis spoke regarding the Blues Fest; the lack of public toilets and facilities in the Downtown area; the lack of accessible exits on the skywalk; and the loss of small business in Duluth and the affect it has on Duluth's economy.

- - -

Bill Wilson stated that he owns property on Highway 61 which was recently rezoned from S suburban to S-2 suburban residential and that he did not learn that the property had been rezoned until he read it in the paper the following week. He stated that as a property owner he was not notified of any plans to rezone the property; and he urged councilors to revisit the issue so that his input can be included.

- - -

Ed Kale exhibited pictures of an area on Park Point where junk, junk trucks and what appears to be numerous rundown, unoccupied old chicken coops are allowed to remain.

- - -

Roland Hamman, Jr., stated his concerns regarding the affect that funding of the city's retiree health insurance has on the city budget and the lack of improvement of the city's infrastructure and how it affects new businesses contemplating a move to Duluth.

- - -

At this time, 7:40 p.m., President Ness adjourned the regular city council meeting and announced that the public hearing regarding amendments to the City Charter would begin.

President Ness stated that the proposed charter amendments are some housekeeping changes that need to take place so that the City Charter reflects the operations of the city.

City Attorney Brown briefed councilors that the first amendment brings the description of election precincts into conformity with existing state election law; the second amendment changes the number of copies of the Charter required by the state; that the organizational meeting day has been updated to conform with state law; the number of days required for the filing of resolutions is being changed to conform with existing practice; the terminology for the keeping of city council records is being changed to keep up with the technological times; the residency requirement for city employees is being changed to conform with law that was passed approximately 20 years ago; the names of boards and commissions are being amended to conform with what they are presently known as; department head titles are being revised to conform with changes that have already been amended in the City Code; the matter of special assessment dates and the dates that they are due are being revised to conform with present practice; and that throughout the Charter, grammatical changes have been made to conform with the state revisor of statutes standards for legislation. He noted that none of these changes are of substance and that City

Charter commissioners discussed these changes at length before agreeing on presentation to the council.

K.L. Lewis stated that it is good for the City Charter to be changed to conform with state law, but she cautioned councilors to read all the changes to insure that unwanted language is not inserted.

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

- - -

Councilor Hogg moved to consider Ordinance 02-030 at this time, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the second time:

BY PRESIDENT NESS

02-030 (9553) - AN ORDINANCE PERTAINING TO THE 1912 CHARTER OF THE CITY OF DULUTH, AS AMENDED, AMENDING SECTIONS 2, 2(A), 6, 8, 11, 14, 26, 27, 60(A), 68 AND 70.

Mr. Brown and Councilor Hogg discussed why it takes 20 years to change the City Charter to conform with state law and city practice.

President Ness moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

ORDINANCE RECONSIDERED

Councilor Atkins moved to reconsider Ordinance 9552 (02-028), which motion was seconded and unanimously carried.

BY COUNCILOR STENBERG

02-028 (9552) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 45, 47, 48 AND 49, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-A AND R-1-B SINGLE FAMILY RESIDENTIAL AND S SUBURBAN TO S-2 SUBURBAN RESIDENTIAL, PROPERTIES LOCATED BETWEEN THE LESTER RIVER AND THE NORTHERN CITY LIMITS, BETWEEN THE CENTERLINE OF TRUNK HIGHWAY 61 AND LAKE SUPERIOR (DULUTH/NORTH SHORE SANITARY DISTRICT).

Councilor Hogg moved to table the ordinance, which motion was seconded and carried upon a unanimous vote.

- - -

MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

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

- - -

BY COUNCILOR HOGG:

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

(a) It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue general obligation improvement

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

refunding bonds, Series 2002E, in the approximate principal amount of \$1,085,000 (the bonds), pursuant to Minnesota Statutes, Chapter 475, for the purpose of refunding the outstanding principal balance of the city's general obligation improvement bonds dated October 1, 1993;

(b) The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 02-0812-22. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed therein to consider bids for the purchase of the bonds;

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

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

Resolution 02-0521 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

(a) It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue \$3,860,000 general obligation street improvement bonds, Series 2002D (the bonds). The bonds are hereby authorized and shall be issued for the purpose of financing the 2002 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;

(b) The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 02-0812-23. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed therein to consider bids for the purchase of the bonds;

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

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

Resolution 02-0522 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

(a) It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue general obligation tax increment refunding bonds, Series 2002F, in the approximate principal amount of \$635,000 (the bonds), pursuant to Minnesota Statutes, Chapter 475, for the purpose of refunding the outstanding principal balance of the city's general obligation tax increment bonds dated October 1, 1993;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

(b) The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 02-0812-24. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed therein to consider bids for the purchase of the bonds;

(c) Evensen Dodge, Inc., independent financial advisor to the City, is hereby authorized to provide the notice of the sale of the bonds in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering;

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

Resolution 02-0523 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

(a) It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue \$7,250,000 general obligation utilities revenue bonds, Series 2002C (the bonds). The bonds are hereby authorized and shall be issued pursuant to Ordinance Nos. 9543, 9544, 9545 and 9546, adopted July 8, 2002, Minnesota Statutes, Chapter 475, and Sections 115.46 and 444.075, and Section 55 of the Home Rule Charter of the city for the payment of the costs of constructing and equipping the public utilities service center on Garfield Avenue to be used by the water, gas, sewer and stormwater utilities. An allocation of proceeds of the bonds and debt service therefor will be made by further resolution of the council;

(b) The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 02-0812-25. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed therein to consider bids for the purchase of the bonds;

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

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

Resolution 02-0524 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS

RESOLVED, that pursuant to Minnesota Statutes 204B.21, the following persons are hereby appointed as election judges in the respective precincts for the September 10, 2002, state primary election and the November 5, 2002, state general election, as listed in Public Document No. 02-0812-26.

RESOLVED FURTHER, that pursuant to Minnesota Statute, 204B.31(d), election judges shall be compensated at the rate of \$7 per hour and chairman election judges shall be also compensated \$15 for election day hours. In addition, election judges carrying supply returns shall

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

be compensated for mileage at the rate of \$.365 per mile; payable from General Fund 015-1512-441.

RESOLVED FURTHER, if any person who is named on the list as a judge is unable to serve, the clerk is empowered to substitute the name of a qualified legal voter for the one who is unable to serve.

Resolution 02-0525 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that pursuant to Minnesota Statutes 204B.16, the following locations are designated as polling places for the September 10, 2002, state primary election and November 5, 2002, state general election:

POLLING PLACE LIST

	POLLING PLACE	ADDRESS
1.	St. Michael's Catholic Church (lower level)	4901 East Superior Street
2.	Lakeside Presbyterian Church (lower level)	4430 McCulloch Street
3.	Lutheran Church of the Good Shepherd (lower level)	1325 North 45th Avenue East
4.	Faith Lutheran Church (lower level)	1814 North 51st Avenue East
5.	Lakeview Covenant Church (lower level)	1001 Jean Duluth Road
6.	Woodland Community Club	3211 Allendale Avenue
7.	Glen Avon Presbyterian Church	2105 Woodland Avenue
8.	Duluth Congregational Church	3833 East Superior Street
9.	Pilgrim Congregational Church	2310 East Fourth Street
10.	U.M.D. Kirby Student Center	1120 Kirby Drive
11.	Kenwood Lutheran Church	324 West Cleveland Street
12.	Chester Park United Methodist Church (lower level)	819 North 18th Avenue East
13.	Mt. Olive Lutheran Church (lower level)	2010 East Superior Street
14.	First Lutheran Church (lower level)	1100 East Superior Street
15.	Trinity Lutheran Church	1108 East Eighth Street
16.	Peace Church (Tenth Avenue entrance)	1015 East 11th Street
17.	First United Methodist Church (Lakeview social hall)	230 East Skyline Parkway
18.	Central Hillside Community Center	12 East Fourth Street
19.	Rainbow Senior Center	211 North Third Avenue East
20.	Lafayette Square (upper level)	3026 Minnesota Avenue
21.	Duluth Public Library (Green Room)	520 West Superior Street
22.	St. Peter's Catholic Church (lower level)	818 West Third Street

POLLING PLACE LIST

POLLING PLACE	ADDRESS
23. Lincoln Park Senior Center (lower level)	2014 West Third Street
24. Holy Cross Lutheran Church (lower level)	410 North Arlington Avenue
25. Duluth Heights Community Club	33 West Mulberry Street
26. Piedmont Elementary School (gym - rear entrance)	2827 Chambersburg Avenue
27. St. Lawrence Church	2410 Morris Thomas Road
28. Holy Family Catholic Church	2430 West Third Street
29. Harrison Community Club	3002 West Third Street
30. City Center West	5830 Grand Avenue
31. Faith Haven (recreation room)	4901 Grand Avenue
32. Elim Lutheran Church (social hall)	6101 Cody Street
33. Bayview Heights School (gym)	8702 Vinland Street
34. Bethany Baptist Church (social hall)	6700 Grand Avenue
35. Goodfellowship Community Center (warming area)	1242-88th Avenue West
36. Stowe School (gym)	715-101st Avenue West

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 10, 2002, and November 5, 2002, elections.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to establish and post temporary handicapped parking zones for the September 10, 2002, and November 5, 2002, 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 02-0526 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Software House International be and hereby is awarded a contract for furnishing maintenance for various Novell software licenses for the M.I.S. division in accordance with specifications and referencing state of Minnesota Contract No. 425551 in the amount of \$26,881.20, terms net, FOB destination, payable out of General Fund 0100, Dept./Agency 015, Organization 1513, Object 5201.

Resolution 02-0527 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Software House International be and hereby is awarded a contract for furnishing Microsoft Office licensees for the M.I.S. division in accordance with specifications and referencing state of Minnesota Contract No.425551 in the amount of \$28,844.46, terms net, FOB destination, payable out of General Fund 0100, Dept./Agency 700, Organization 1418, Object 5201.

Resolution 02-0528 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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

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

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

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

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
Climb Theatre, Inc.	Country Lanes	July/11/2002

Resolution 02-0542 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the city council of the city of Duluth hereby approves the following transfer of the on sale intoxicating liquor license, for the period ending August 31, 2002, subject to departmental approvals and the payment of sales and property taxes:

Darrel Fredrickson, (Horseshoe Billiards), 2415 West Superior Street, transferred from Lucky Break, Inc., 610 East Fourth Street, with Darrel Fredrickson, 100 percent owner.

Resolution 02-0543 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of equipment maintenance specialist, which were approved by the civil service board on July 11, 2002, and which are filed with the city clerk as Public Document No. 02-0812-27, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 25, \$2,562 to \$3,022 per month.

Resolution 02-0506 was unanimously adopted.

Approved August 12, 2002

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointment by Mayor Doty of Darryl L. Scott (District 4) to the Duluth transit authority for a term expiring June 30, 2005, is confirmed.

Resolution 02-0544 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED that the proper city officials are hereby authorized to accept the free conveyance of the following described property in St. Louis County, Minnesota from the Housing and Redevelopment authority of Duluth, Minnesota:

Lots One, Two, Three, Four, Five and Six, Block Four), WALBANK'S THIRD STREET REARRANGEMENT.

Resolution 02-0516 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, POFABE Development Corporation has submitted to the city council a request to amend the Kenwood Shopping Center C-3 zoning plan to provide for facade changes, remodeling and a 7,200 square foot expansion of the grocery store portion; and said amendment 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 approval is hereby granted to allow for facade changes, remodeling and a 7,200 square foot expansion of the grocery store portion as delineated in the following plans:

(a) "Jubilee Grocery Store, Proposed Addition and Remodel, Duluth, Minnesota," Sheet C1, dated 10-17-01 by TCI Architects/Engineers/Contractor, Inc.;

(b) "New Grocery Store, Festival Foods, Kenwood Mall, Duluth, Minnesota," Sheet ELEV, dated 06-20-02 by TCI Architects/Engineers/Contractor, Inc.; and

(c) "Kenwood Shopping Center," by Engwall Landscape, dated 1/2/02.

Resolution 02-0514 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

WHEREAS, 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 Senior Service America, Inc.(SSAI), grant in the amount of \$214,700 for the period of July 1, 2002, through June 30, 2003. A copy of this agreement and electronic form budget shall be on file in the city clerk's office as Public Document No. 02-0812-28.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

FURTHER RESOLVED, that monies received shall be deposited in Fund 270, Budget Item 6334.

Resolution 02-0473 was unanimously adopted.
Approved August 12, 2002
GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to accept \$159,769 in state welfare-to-work (TANF) funds from the Minnesota department of economic security in accordance with City Contract No. 19048, Resolution No. 01-0688, passed September 24, 2001. Said monies to be used to provide intensive workforce development services to caretakers of children who are at risk of reaching the 60 month eligibility limit for the Minnesota family investment program, as defined in the local plan for Minnesota welfare-to-work services for the period July 1, 2002, through June 30, 2003. Funds received will be deposited in Fund 0268, Budget Item 6201.

Resolution 02-0507 was unanimously adopted.
Approved August 12, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city has received a petition from owners of 53.98 percent of the abutting property to construct a permanent alley in 57th Avenue West Alley between 57th Avenue West and Cody Street.

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

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

Resolution 02-0476 was unanimously adopted.
Approved August 12, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city has received a petition from owners of 43.75 percent of the abutting property to construct a permanent alley in Third Street Alley between 18th and 19th Avenues East.

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

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

Resolution 02-0477 was unanimously adopted.
Approved August 12, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

WHEREAS, it appears that it may be necessary to construct 125 feet of watermain along 96th Avenue West beginning at mid-block and extending northerly to Peary Street.

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

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

Resolution 02-0515 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Chesley Freightliner-Duluth be and hereby is awarded a contract for furnishing and delivering one Freightliner Model FL112 cab and chassis for the utility operation divisions in accordance with specifications on its low specification bid of \$103,929.50, terms net 30, FOB destination, \$41,571.80 payable out of Water Fund 0510, Dept./Agency 500, Organization 1905, Object 5580 and \$62,357.70 payable out of Gas Fund 0520, Dept./Agency 500, Organization 1905, Object 5580.

Resolution 02-0529 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Duluth Ready Mix, Inc., be and hereby is awarded a contract for furnishing and delivering 9,500 cubic yards of washed sand for the maintenance operation division in accordance with specifications on its low specification bid of \$93,081, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 500, Organization 2000, Object 5233.

Resolution 02-0530 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that MacQueen Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering a Vactor combination sewer machine for the utility operation division in accordance with specifications on its low specification bid of \$188,382, terms net 30, FOB destination, payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5580.

Resolution 02-0531 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Chesley Freightliner-Duluth be and hereby is awarded a contract for furnishing and delivering one Freightliner Model FL112 cab and chassis for the utility operation divisions in accordance with specifications on its low specification bid of \$90,000, terms net 30,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

FOB destination, payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5580.

Resolution 02-0532 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Duluth Superior Erection, Inc., be and hereby is awarded a contract for the construction of Spear Alley between Glenwood Street and Park Street for the engineering division in accordance with specifications on its low specification bid of \$33,307.40, terms net 30, FOB job site, payable out of Special Assessment Fund 0410, Dept./Agency 038, Organization 5342, Object 5530.

BE FURTHER RESOLVED, that Ordering Resolution 01-0645, passed on September 24, 2001, be amended adding \$8,000 payable out of Stormwater Utility Fund 0535 for a new total project budget in the amount of \$40,000.

Resolution 02-0533 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Lakehead Electric Company, Inc., be and hereby is awarded a contract for traffic signal system replacement on 27th Avenue West at Superior Street and installing traffic signal system on 27th Avenue West and Michigan Street for the engineering division in accordance with specifications on its low specification bid of \$199,304.45, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2228, Object 5530. To be reimbursed through Municipal State Aid funds (MSA).

Resolution 02-0534 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 01-0479 to L.H.B. Architects and Engineers for the engineering services required for preliminary design for the replacement of box culvert over Chester Creek on Kenwood Avenue approximately 400 feet south of College Street, be amended to increase the amount by \$28,332 for a new total of \$45,249, payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1930, Object 5303.

Resolution 02-0535 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Lakehead Electric Company, Inc., be and hereby is awarded a contract for traffic signal system replacement on 59th Avenue West at Grand Avenue for the engineering division in accordance with specifications on its low specification bid of \$137,600, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2228, Object 5530; to be reimbursed through municipal state aid funds (MSA).

Resolution 02-0536 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Approved August 12, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Traffic Control Corporation be and hereby is awarded a contract for furnishing and delivering a new traffic signal controller and cabinet on 27th Avenue West at Michigan Street and Superior Street for the engineering division in accordance with specifications on its low specification bid of \$52,394.64, terms net 30, FOB destination, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2228, Object 5530; to be reimbursed through municipal state aid funds (MSA).

Resolution 02-0537 was unanimously adopted.

Approved August 12, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct a residential design street to include sanitary sewer, watermain and gas main in: 85th Avenue West to serve Lot 1, Block 2, and Lots 1 and 2, Block 1 in Wahlstrom Division Second Addition.

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

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

Resolution 02-0538 was unanimously adopted.

Approved August 12, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct a residential design street in Hartley Estates Third Division in Marshall Street from Maxwell Avenue westerly to include cul-de-sac, and construct utilities (sanitary sewer, watermain, stormwater improvements and gas main) all pursuant to plans and specifications prepared by Short Elliot Hendrickson and approved by the city of Duluth in order to serve all the lots in Hartley Estates Third Addition.

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

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

Resolution 02-0539 was unanimously adopted.

Approved August 12, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Northland Constructors of Duluth, LLC, be and hereby is awarded a contract for the repair of the eroded shore embankment adjacent to Lift Station No. 3 for the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

engineering division in accordance with specifications on its low specification bid of \$86,583, terms net 30, FOB job site, payable out of Sewer Construction Bond Fund 0531, Dept./Agency 500, Object 5532.

Resolution 02-0541 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 01-0594 to ProSource Technologies, Inc., for the professional right-of-way and easement acquisition services to construct an approximately 4.7 mile ten inch diameter x 52 inch steel pipeline for the transmission of natural gas, be amended to increase the amount by \$190,279 for a new total of \$388,748, payable out of Gas Construction Bond Fund 0521, Dept./Agency 500, Object 5532.

Resolution 02-0545 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

BE IT RESOLVED, that the proper city officials are authorized to pay to John and Paula Schilla the amount of \$20,125.36 in full settlement of all claims for damage to their property at 408 Stroll Avenue resulting from a water mainbreak which occurred on March 11, 2002, payment to be made from the self insurance fund.

Resolution 02-0546 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following "no parking" zone is hereby established:

Both sides of Congdon Boulevard from the Lakewood Road easterly 1,900 feet.

Resolution 02-0540 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR ATKINS:

WHEREAS, the Duluth City Council, as the legislative branch of city government:

(a) Recognizes its responsibility to scrutinize development projects undertaken and/or supported by the city administration; and

(b) Is dedicated to ensuring that such projects embody an important public purpose that will benefit both citizens and neighborhoods of the city; and

(c) Will support projects that represent an important public purpose and oppose projects that fall short of that standard; and

(d) Believes projects that respond to broader citizen and neighborhood concerns should be encouraged and supported; and

(e) Considers the issue of storm watermanagement as an important citizen and neighborhood concern; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

(f) Understands that the developers of the Duluth Heights affordable and market rate housing development, a development in which the city of Duluth and Habitat for Humanity-Duluth are partners, have created a stormwater management plan designed to benefit citizens and neighborhoods beyond the scope of the project itself; and

(g) Believes that such an expanded stormwater management plan serves an important public purpose

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council supports and endorses the city administration's efforts to pursue development partnerships, such as the Duluth Heights affordable and market rate housing development, in which the scope of development is expanded to address important public purposes and respond to broader citizen and neighborhood concerns.

Resolution 02-0551 was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0548, by Councilor Stenberg, approving program guidelines for the Duluth natural areas program, was introduced for discussion.

Councilor Stenberg stated that an ordinance regarding this issue is being read for the first time tonight and that the resolution should be dealt with at the next meeting when the ordinance has its second reading.

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

- - -

Resolution 02-0549, by Councilor Stenberg, authorizing DEDA to enter into a contingent purchase agreement for Lots 5 - 9, Block 7, Portland Division, pursuant to DEDA Resolution 02D-46, was introduced for discussion.

Councilor Stenberg stated that the purchase of this property, which is the Arrowhead Medical Building, has been discussed by the Duluth economic development authority (DEDA) several times and that as of this evening's meeting, on a vote of four to three, DEDA approved the resolution. He reviewed that at the last council meeting, councilors approved the purchase of this building, but because of some technicalities in the purchase agreement, it was necessary for the mayor to veto the resolution, thus the reason for the council's need to consider the issue again.

Responding to councilors, Councilor Stenberg stated that there is no specific development planned for this property at the present time. However, the building is being purchased as a strategic acquisition, since St. Mary's Duluth Clinic's (SMDC's) recent expansion, to accommodate and act as a catalyst to foster and bring private development to the planned medical district.

Councilors discussed at length whether it is wise for the city to purchase this building at this particular time; the concept of tax increment financing; the practice of the city and/or DEDA purchasing property and buildings on speculation with no present plan for development; DEDA's past track record with regard to the purchase of property on speculation with the intent of creating jobs and whether the city is better off today because of it; the fact that there has been no appraisal on the building and that its value is unknown at this time; the cost of the building and whether this is an efficient way to spend taxpayers' money, alternative ways to spend this money that will result in aiding existing businesses and the collection of property taxes if this building stays in private or city ownership.

Resolution 02-0549 failed upon the following vote (Public Document No. 02-0812-29):

Yeas: Councilors Atkins, Stauber, Stenberg and Stewart -- 4

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Nays: Councilors Gilbert, Hogg, Stover and President Ness -- 4

Absent: Councilor Bergson -- 1

- - -

Resolution 02-0519, by Councilor Gilberg, ending the use of a diaphone fog horn as a private aid to navigation, was introduced for discussion.

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

- - -

Resolution 02-0518, by President Ness, in support of changing the hours of operation of the diaphone fog horn, 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 resolution: Sam Lincoln, Wayne Torve; Sally Larson; John Elliott; Robert Johannessen; Kathy Pettit; Michaela Morrow; Ken Steil and Jeff Pierson.

Reasons for supporting the resolution were as follows: it interrupts sleeping patterns and affects the health and well-being for some people; it rattles windows and causes audible inconveniences for individuals; a number of residents purchased their homes in this area in the 1980's before the fog horn was reintroduced to the city and it should not have been imposed on them; the fog horn can be heard for ten miles which is five times the distance required by the coast guard; according to the coast guard, it is not necessary for the fog horn to be used as a navigational device and the safety of boaters will not be compromised; the fog horn is a nice attraction for tourists and does have nostalgic value, however, the present hours of use of the fog horn are unreasonable and there needs to be a compromise; it is unreasonable for TOOT and fog horn supporters to use the ultimatum of our way or the highway with regard to hours and purpose of the fog horn; TOOT supporters have been rude and disrespectful to individuals who are sensitive to the noise and have requested these changes; and this organization should not be able to dictate the imposition of noise of the fog horn on residents living in the affected area.

The following individuals spoke in opposition to the resolution: Hank Oltmanns; K.L. Lewis; John Ringsred and Pete Clure.

Reasons for opposing the resolution were as follows: the existing modern, standard equipment that is used by the coast guard throughout the ports of the United States is not always effective, which sometimes makes conditions for boaters unsafe; Duluth is a seaport and should have seafaring acoustical devices for the safety of those on the water; not all boaters who use the lake have access to navigational instruments; some people with hearing impairments cannot hear the standard coast guard high frequency whistle; the sound of the diaphone fog horn is much better than the coast guard whistle because it gives a better directional reference to boaters; this diaphone fog horn is unique in that it is the only one in the country; the majority of Duluthians want to keep the fog horn operating as it is presently operated; the Save Our Serenity (S.O.S). group already received a compromise in the hours of operation back in 1995; and a lot of time and effort went into bringing this foghorn back to Duluth.

Chief Scott McAlvan of the coast guard reviewed how the coast guard standard signal works with the diaphone fog horn and he requested that if changes are to be made to its present hours of operation, that the coast guard be notified as quickly as possible so that vessels can be appropriately notified in a timely manner.

Councilors Gilbert and Atkins stated that even though a majority of city residents seem to favor the current hours of the fog horn, the residents who are directly and adversely affected by

the noise of the fog horn, who are in the minority, need to be considered. They supported the resolution.

Councilor Stewart stated that there has already been a compromise made in 1995 for the operation of the fog horn and that whether the hours are changed or not, it will not satisfy all individuals.

Councilor Stewart moved to amend the resolution as follows:

(a) In the title, replace the word "CHANGING" with "MAINTAINING" and add the word "CURRENT" before the word "HOURS";

(b) In the first paragraph of the resolution, replace the phrase "a change in the" with "maintaining the current," replace the word "become" with "remain" and replace the times from "10:00 a.m. and 8:00 p.m." with "7:00 a.m. and 11:00 p.m.";

(c) In the second paragraph of the resolution, delete the phrase "including implementing changes in the existing permit agreement with the United States coast guard" and replace the phrase "effectuate the change in" with "maintain the current," which motion was seconded for discussion.

Councilors Stover, Hogg and Stauber supported the amendment for the following reasons: it is premature to change the hours before exploring remedies that may be available to muffle or redirect the sound of the fog horn so that it is not so loud; there are many noises such as sirens, loud mufflers, motorcycles, trains, airplanes, etc., that are nuisances and annoy individuals and disrupt sleep, however, there is no way to control all of them and since this is the city, people accustom themselves to them without putting limitations on them.

Responding to councilors, President Ness expressed his desire to vote on the resolution tonight, stating that the issue has been discussed for weeks and the community needs to have it settled. He opposed the amendment and agreed that while there are noises that can not be controlled, this one can be, and that the compromise he has proposed in this resolution is reasonable and better reflects the hours that do not interfere with the majority of Duluthians' sleeping schedule. President Ness urged councilors to work with the coast guard and individuals from TOOT to be responsible to the residents of the Central and East hillsides and look out for their interests, sleeping schedules and health, which are important.

Administrative Assistant Winson stated that if this resolution passes with a change in the hours of operation of the fog horn, that it probably will not result in an actual change in hours this season because the owners of TOOT have stated that they will not agree to them. He also stated that arrangements will have to be made with the coast guard for the change, which will allow time to explore alternatives before a new agreement is in place. Councilor Stewart's amendment passed upon the following vote:

Yeas: Councilors Atkins, Hogg, Stauber, Stewart and Stover -- 5

Nays: Councilors Gilbert, Stenberg and President Ness -- 3

Absent: Councilor Bergson -- 1

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

Yeas: Councilors Gilbert, Hogg, Stenberg and President Ness -- 4

Nays: Councilors Atkins, Stauber, Stewart and Stover -- 4

Absent: Councilor Bergson -- 1

Resolution 02-0518, as amended, was adopted upon the following vote:

Yeas: Atkins, Hogg, Stauber, Stewart and Stover -- 5

Nays: Councilors Gilbert, Stenberg and President Ness -- 3

Absent: Councilor Bergson -- 1

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

[Editor's Note: Resolution 02-0518 was vetoed by Mayor Doty on August 26, 2002 (Public Document No. 02-0826-04).

- - -

Resolution 02-0550, by President Ness, authorizing the city clerk to issue up to 70 visitors permits to Denfeld High School for use by Denfeld students in the Denfeld High School resident permit parking zone, was introduced for discussion.

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

Patricia Berg expressed her dismay by the presentation of this resolution and stated that in May residents were told that they would be notified when this issue would be brought up again. She stated that there has not been any neighborhood notification and that residents do not support permits for students. Ms. Berg added that other residential parking zones in the city do not offer student permits and that there should be no attachments added to this one and that inclusion of student permits for this zone is an imposition on the Denfeld residents and is not fair.

Councilor Stover and President Ness assured Ms. Berg that this provision is for trial purposes and can be rescinded at any time, it will be closely monitored by the school and that any complaints will be dealt with immediately.

Councilor Hogg stated that he did not support the student passes costing less than what residents have to pay for permits.

Councilor Hogg moved to amend the last paragraph of the resolution by changing "\$1" to "\$3," which motion was seconded and unanimously carried.

Resolution 02-0550, as amended, was adopted as follows:

BY PRESIDENT NESS:

RESOLVED, that pursuant to Section 33-126 of the Duluth City Code, the Duluth City Council hereby authorizes the city clerk to issue up to 70 visitors permits to Denfeld High School for use by Denfeld students parking in the Denfeld High School resident permit parking zone.

RESOLVED FURTHER, that the clerk shall charge a \$3 fee for each permit.

Resolution 02-0550, as amended, was unanimously adopted.

Approved August 12, 2002

Gary L. Doty, Mayor

- - -

Resolution 02-0520, by President Ness and Councilor Atkins, supporting the protection of the Lake Superior watershed, was introduced for discussion.

President Ness read the resolution in its entirety.

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

Greg Price stated that this issue was addressed in November of 1993 but no action was taken by the federal government. He emphasized that it is important for the council to renew the city's stance on the issue because of the urgency that is being given to the issue of finding a dump site for radioactive nuclear materials nationally. Mr. Price reviewed his communication (Public Document No. 02-0812-33) at length.

Peggy Marrin and Michaela Morrow thanked President Ness and Councilor Atkins for presenting this resolution to the council and stated full support for it.

Councilor Hogg stated support for the resolution and moved to amend the resolution by adding the following paragraph:

"RESOLVED FURTHER, that the city council president and the mayor are requested to convey these council positions to our U.S. senators and representatives and other key and interested members of congress and to share responses received with the council and with the citizens of Duluth," which motion was seconded and unanimously carried.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Resolution 02-0520, as amended, was adopted as follows:

BY PRESIDENT NESS:

WHEREAS, Lake Superior is the largest freshwater lake in the world and the source of drinking water for many Americans; and

WHEREAS, Lake Superior contains international waters bordering two countries and three American states; and

WHEREAS, Lake Superior has a recognized commercial and sport fishing industry.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council supports the establishment of the following Lake Superior watershed protection laws at the federal level:

(a) That the site of any high-level/low-level radioactive waste depository be prohibited within the Lake Superior watershed;

(b) That the siting of any toxic waste depository be prohibited within the Lake Superior watershed.

RESOLVED FURTHER, that the city council emphasizes to its senators and representatives in the U.S. Congress the need to make certain that federal laws and regulations provide the public with the needed level of protection, and that materials which the U.S. government, or its contractors, have deposited in the lake are in compliance with all laws and regulations.

RESOLVED FURTHER, that the city council emphasizes to its senators and representatives in the U.S. Congress the need to have the U.S. department of transportation make certain that the most dangerous materials are transported in the safest equipment available to each mode of transportation.

RESOLVED FURTHER, that the city council emphasizes to its senators and representatives in the U.S. Congress the need to make certain that the U.S. department of transportation properly enforces safety regulations pertaining to the transportation of hazardous materials.

RESOLVED FURTHER, that the city council president and the mayor are requested to convey these council positions to our U.S. senators and representatives and other key and interested members of congress and to share responses received with the council and with the citizens of Duluth.

Resolution 02-0520, as amended, was unanimously adopted.

Approved August 12, 2002

Gary L. Doty, Mayor

- - -

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

- - -

Resolution 02-0301, by Councilor Stauber, 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 speakers on the resolution.

Michaela Morrow stated that there seems to be conflicts between the state and city regulations regarding buildings and building codes. She stated that the city needs to have a clear and concise process with concise criteria to determine which buildings must be torn down, which buildings can be rehabilitated and which buildings are stable and sound. Ms. Morrow stated that this is a matter of safety, homeowners' rights and that there needs to be definite appeal process.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

She encouraged the council to revamp the process so that it is consistent with state law and fair to all property owners.

Eric Ringsred reviewed his communication (Public Document No. 02-0812-31(b)) regarding the demolition of property located at 1510 East Second Street and requested that the property be removed from the resolution because the issue is in the process of appeal and is to be heard by the building appeals board at its next meeting. He further stated that there are problems unique to this structure that a good amount of money is being paid to an architect to fix.

Ed Kale reviewed his communication (Public Document No. 02-0812-31(a)) at length regarding demolition of property at 23 East Seventh Street. Mr. Kale noted that this is the fourth time this issue has come up between himself and the building safety division. He stated that Mr. Winson has issued a memo stating that it is his determination that the appropriate process for demolition of condemned structures has not been followed. He requested that this parcel of property be removed from the resolution until an appropriate process dealing with issues such as this has been established.

Responding to Mr. Winson, Councilor Hogg stated he is reluctant to leave parcels that have unfinished business in this resolution even though the building official has the power to determine that they will not be bid out for demolition with the other parcels listed.

Councilor Gilbert moved to split the resolution so that Parcel Nos. 8 and 10 can be dealt with separately, which motion was seconded and unanimously carried.

Resolution 02-0301(a) was adopted as follows:

BY COUNCILOR BERGSON:

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 the criteria of city Code §10-3 was met in each case and evidence thereof has been placed in the file; and

WHEREAS, the cost to the city for the demolition of the following parcels of property has been estimated to not exceed \$41,000 and there is a current unobligated balance in Account 100-100-1504-5453 of \$58,154.51; and

WHEREAS, notices of condemnation were served as follows:

Parcel 1: 2612 West Fourth Street, legally described as west ½ of Lot 422, Block 115, Duluth Proper Second Division, by certified mail on Fairbanks Capital Corporation, 3815 South West Temple, P.O. Box 65250, Salt Lake City, UT 84165-0250, signed by Wendy Daniels on December 10, 2001; and

Parcel 2: 3914 West Fourth Street, legally described as Lot 10, Block 16, Hazelwood Park Division, by certified mail on Sylvia Wallace, 3914 West Fourth Street, Duluth, MN 55806, signed by Charles Thompson of 3731 West Sixth Street on June 23, 2001; and

Parcel 3: 6314 Pizarro Street, legally described as Lots 6 and 7, Block 22, Dodges Addition, by certified mail on the estate of Kevin Hadley, 3986 East Calvary Road, #104, Duluth, MN 55803-1371, returned marked unclaimed on February 2, 2002, and by legal notice in the Duluth News Tribune on April 11 and 12, 2002; and

Parcel 4: 8821 Keene Avenue, legally described as Lots 24, 25 and 26, Block 17, Ironton Fourth Division, by certified mail on Steven A. Doherty, 8821 Keene Avenue, Duluth, MN 55808, signed by Steven Doherty on March 7, 2002, and by posting demolition order on February 22, 2002; and

Parcel 5: 13225 West Fourth Street, legally described as north 52 feet of Lots 41, 43, 45 and 47 and that part of Lots 49 and 51 lying northerly of a line drawn from a point on westerly line of Lot 49, 52 feet south of northwest corner to a point on easterly line of Lot 51, 38 1/10 feet

south of northeast corner Fond du Lac, Fourth Street, Duluth, by certified mail on John and Barbara Lewandowski, 130 97th Avenue West, Duluth, MN 55808, signed by Barbara Lewandowski on February 7, 2001; and

Parcel 6: 2412 West First Street, legally described as west ½ of Lot 390, Block 49, Duluth Proper Second Division, by certified mail on Patricia M. Farley and Claude G. Smith, JT, c/o Claude Smith, 3845 Birchwood Road, Duluth, MN 55803-1108, signed by Claude Granville Smith on May 15, 2002; and

Parcel 7: 4329-31 East Superior Street - GARAGE ONLY - legally described as Lot 9, Block 26, London Addition to Duluth, by certified mail on Jon A. Leppala, 590 Grospoint Lane, Oakdale, MN 55128, signed by B. Ankarlo on March 19, 1999; and

Parcel 9: 538 Woodland Avenue - GARAGE ONLY - legally described as Lot 11, Block 28, East Lawn Division and part of Lots 5 and 6, Block 14, Highland Park Addition and of Lots 13 and 14, Block 28, East Lawn Division beginning at southeast corner of Lot 11, Block 28, East Lawn Division running thence southeasterly to the southeasterly corner of Lot 5, Block 14, Highland Park Addition thence easterly along the northerly line of alley, by certified mail on Diana Vanasse, 538 Woodland Avenue, Duluth MN, 55812, returned marked unclaimed on March 1, 2002, and by legal notice in the Duluth News Tribune on April 11 and 12, 2002, and by posting demolition order on garage on February 13, 2002; and

Parcel 11: 2624 West Second Street - GARAGE ONLY - legally described as e 30 feet of Lot 430, Block 79, Duluth Proper Second Division, by certified mail on Jon E. and Tina L. Johnson, 3304 Vernon Street, Duluth, MN 55806, signed by Tina Johnson on June 13, 2001.

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 02-0301(a) was unanimously adopted.

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

Councilor Hogg moved to return Resolution 02-0301(b), Parcel Nos. 8 and 10, to the administration, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR STEWART

02-037 - AN ORDINANCE AMENDING THE REGULATIONS FOR THE DEMOLITION OF HAZARDOUS BUILDINGS; AMENDING SECTIONS 10-3 AND 10-5 AND REPEALING IN ITS ENTIRETY SECTION 10-7 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR STENBERG

02-036 - AN ORDINANCE CREATING DULUTH NATURAL AREAS PROGRAM AND ESTABLISHING PROCEDURES WITH REGARD THERETO, AMENDING CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW ARTICLE XXIX THERETO.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Kay L. Lewis stated her concerns that eminent domain could possibly become an issue with this legislation and she cautioned the council that the wording of it should be scrutinized very carefully.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR ATKINS

02-034 (9554) - AN ORDINANCE ELIMINATING THE LIMITATION ON THE NUMBER OF TAXI LICENSES ISSUED IN THE CITY OF DULUTH; REPEALING SECTION 47-17.4 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR ATKINS

02-035 - AN ORDINANCE PROVIDING FOR TEN ADDITIONAL TAXI LICENSES IN THE CITY OF DULUTH; AMENDING SECTION 47-17.4 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Atkins introduced the ordinances and reviewed what the differences were between ordinances 02-034 and 02-035 and how each will affect the issuance of taxi licenses.

The rule were suspended upon a unanimous vote to hear speakers on the ordinances.

Jim McLellan, representing Allied Taxi, opposed any change in taxi license legislation and noted that the existing taxi companies work well together; that any increase in the number of taxi licenses will totally devastate existing taxi companies economically and that since the original legislation was approved in 1971, the population of Duluth has decreased by 20,000 which has created less demand for taxi service.

Jason Jacobson and Mike Mathias, representing USA Taxi; and Linda Cadotte, representing Courtesy Cab, supported issuance of additional taxi licenses. Reasons stated in support of additional licenses were as follows: USA Taxi is a service-oriented company and there have been many complaints stated about the service of existing cab licensees; it is the right thing to do and will benefit both Duluth and Superior, Wisconsin, economically; it will offer an opportunity for new small businesses in Duluth and a petition of public support for additional licenses was presented previously.

Councilor Gilbert stated that the quality of taxi service that is presently available is not the issue and requested that speakers refrain from commenting on it.

Councilors Hogg, Stewart, Stenberg, Stover and Atkins stated support for removal of the limitation of the number of taxi licenses allowed in the city for the following reasons: this issue will need to be revisited every time a new cab company wants to open a business in Duluth if only ten new licenses are issued because the number of taxi licenses issued will have to be increased over and over; there is no clear public purpose to limit the number of taxi licenses in Duluth; the reason for the issuance of licenses is for public safety, not which companies will survive in today's market; if Ordinance 02-035 is adopted, there will be more than ten new applications for new licenses and then it would be left up to the administrative assistant to determine who, for whatever reason, gets the licenses; it is not appropriate to prevent other companies from doing business in the city; if the existing legislation is to be amended, the existing cab companies prefer no limitation on licenses.

Councilor Gilbert supported Ordinance 02-035, which will allow issuance of additional licenses, but in moderation. He cited that it may be somewhat unfair because new companies will benefit from legislation that existing taxi companies have previously spent considerable time and money to establish and he reviewed why he believes there is a public purpose for regulating the amount of taxi licenses issues.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Councilor Hogg moved that the meeting be extended until 11:45 p.m., which motion was seconded and carried upon unanimous vote.

- - -

Mr. Winson stated that the administration supports legislation that will eliminate the number of taxi licenses allowed.

Mr. Brown stated that if the administrative assistant denies a license, there is a process for appeal to the city council and that if a license is not used for seven consecutive days, the administrative assistant is obligated to revoke it so that floating licenses do not exist.

Councilor Stauber stated he will support neither proposed ordinance because as long as the city chooses to continue to regulate fares, what type of vehicles can be used to transport the public and the qualifications of the drivers, there is no open competition and without open competition, hands are being tied.

President Ness stated support for Ordinance 02-035, noting that he supports the view of existing taxi companies, but that he believes that ten more additional licenses is reasonable and may create some new competition, but will not destroy the structure of the taxi industry in Duluth.

Councilor Atkins moved passage of Ordinance 02-034 and the same was adopted upon the following vote:

Yeas: Councilors Atkins, Hogg, Stenberg, Stewart and Stover -- 5

Nays: Councilors Gilbert, Stauber and President Ness -- 3

Absent: Councilor Bergson -- 1

- - -

Councilor Atkins moved to return Ordinance 02-035 to the administration, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR STENBERG

02-031 (9555) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO JO-ED PARTNERSHIP FOR AN AWNING OVER THE RIGHT-OF-WAY OF 20TH AVENUE WEST FOR THE HOBART BUILDING AT 1932 WEST MICHIGAN STREET (KLEIMAN).

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

- - -

BY COUNCILOR STENBERG

02-033 (9556) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 33 AND 36 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S SUBURBAN TO R-1-A SINGLE FAMILY RESIDENTIAL, 50 ACRES OF PROPERTY LOCATED NORTHWESTERLY OF THE INTERSECTION OF BLACKMAN AVENUE AND MACFARLANE ROAD (HOVLAND/GREENBRIAR HILLS).

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

- - -

BY PRESIDENT NESS

02-032 (9557) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOT 27, BLOCK 1, LINCOLN PARK TERRACE TO THE STATE OF MINNESOTA FOR A CONSIDERATION OF \$500.

President Ness moved passage of the ordinance 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. 9553

BY PRESIDENT NESS:

AN ORDINANCE PERTAINING TO THE 1912 CHARTER OF THE CITY OF DULUTH, AS AMENDED, AMENDING SECTIONS 2, 2(A), 6, 8, 11, 14, 26, 27, 60(A), 68 AND 70.

The city of Duluth does ordain:

Section 1. That Section 2 of the 1912 Charter of the city of Duluth, as amended, is hereby amended to read as follows:

Sec. 2. Form of government; administrative assistant; membership of council; council districts.

This government provided for by this Charter shall be known as the mayor-council form of government. The mayor shall be aided by an administrative assistant who, in the performance of the duties of such office, shall be responsible to the mayor. The council shall have nine members, four elected from the city at large and five from geographical districts.

The city is hereby divided into five council districts numbered from one to five consecutively.

After the state legislative redistricting, based on a new federal census, the city council shall determine whether or not the population of each council district is substantially the same and, if not, the council shall by ordinance establish election precincts to the council districts so as to equalize, as nearly as practical, the number of people in each council district. Each council district shall consist of contiguous territory. If, in any such redistricting, the residence of any district councilor is placed outside of the enumerated district from which such councilor was elected, the office shall not be deemed vacant on that account and such councilor shall continue to serve out the term for which elected.

The council districts are established herein solely for the purposes of electing district councilors. The administration of the city shall never be divided, nor any facility ever provided, nor any appropriation ever made upon a council district basis.

The terms of office of the mayor and councilors shall be for four years and until their successors are elected and qualified.

Section 2. That Section 2(A) of the 1912 Charter of the city of Duluth, as amended, is hereby amended to read as follows:

Sec. 2(A). Combination of rearrangement of election precincts within council districts.

The council may, by ordinance, combine or rearrange election precincts within a council district as the needs or convenience of the electors may require, provided that such combination or rearrangement shall make no geographic change in any legislative county, or school districts.

Section 3. That Section 6 of the 1912 Charter of the city of Duluth, as amended, is hereby amended to read as follows:

Sec. 6. Legislative powers of city; time of council meetings; officers of council.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

All legislative powers of the city shall be vested in the city council and shall be exercised by it in the manner and subject to the limitations hereinafter set forth. The councilors shall meet for organization on the first Monday of January, at which time it shall elect one councilor as president and one councilor as vice president. The city clerk shall be secretary of the council unless the council by a two-thirds vote shall determine to elect and employ another as secretary of the council, who shall not be selected from its own membership. The council shall determine its own procedure.

The council may employ and fix the compensation of not to exceed ten student interns or other qualified persons working on a part time basis to assist the council in performing its functions under this Charter, not to exceed a total budget expenditure of \$20,000 annually. Such employees shall not be within the classified service of the city. The provisions of this paragraph shall be implemented by resolution of the council, which resolution must be approved by at least seven members of the council.

Section 4. That Section 8 of the 1912 Charter of the city of Duluth, as amended, is hereby amended to read as follows:

Sec. 8. Ordinances--required for all legislation and appropriations; recordation of votes.

Except as in this Charter otherwise provided, all legislation and appropriations of money shall be by ordinance, save that where obligations have been incurred by ordinance, payment thereof may be ordered by resolution, and save also that licenses may be granted, flow of traffic regulated, and the powers conferred by Chapter IX hereof exercised, by resolution. The council may by ordinance authorize executive and administrative officers of the city to issue licenses and permits, except when statutes require licenses to be granted by the council, and to make contracts which are not subject to the competitive bidding requirements of Section 31 of this Charter and which involve less than \$5,000, pursuant to appropriations made by ordinance. Every ordinance and resolution shall be in writing and read in full at a council meeting before a vote is taken, except (i) every ordinance or resolution, copies of which, together with a brief description of the purpose of said ordinance or resolution, are presented to each member of the council at least 12 hours prior to the time of the introduction of such ordinance or resolution, or (ii) every resolution awarding the sale of bonds, certificates of indebtedness, capital notes, lease purchase agreements, certificates of participation, and installment purchase agreements shall not be required to be read in full at each reading before the council, but may be read by title and such description. Ordinances and resolutions may be passed upon a voice vote of the council, but if such voice vote is not unanimous, the yeas and nays shall then be called and recorded.

Except for emergency ordinances or emergency resolutions or resolutions awarding the sale of bonds, certificates of indebtedness, capital notes, lease purchase agreements, certificates of participation, and installment purchase agreements, every ordinance and resolution shall be filed with the city clerk at least 24 hours prior to the introduction of the same.

Section 5. That Section 11 of the 1912 Charter of the city of Duluth, as amended, is hereby amended to read as follows:

Sec. 11. Same--Public reading; certain ordinances to remain on file one week before final passage; emergency ordinances; filling vacancies in office of councilor when quorum cannot be assembled; procedure when replaced councilor returns.

Every ordinance, other than an emergency ordinance, shall have two public readings either in full or by title and description as provided in Section 8 hereof, which readings shall not both be given on the same day. At least three days shall elapse between the introduction and the final passage of any ordinance, except as otherwise provided in this Charter. Every ordinance, except an emergency ordinance, appropriating money in excess of \$5,000 shall remain on file at least one week before its passage.

An emergency ordinance or resolution is an ordinance or resolution for the immediate preservation of the public peace, health or safety, in which the emergency is defined and declared in a preamble thereto separately voted on, and receiving the affirmative vote of all members of the council in attendance at the meeting considering such emergency legislation; provided that no grant of any franchise shall be construed to be an emergency ordinance or resolution. An emergency ordinance or resolution may be enacted without previous filing.

If by reason of simultaneous death, civil or military disaster, absence or disappearance, it shall not be possible to assemble a regular quorum, then for the purpose of filling vacancies on the council pursuant to Section 4 hereof, the member or members of the council present at a meeting constitute a quorum. If, subsequent to appointment of a successor to a member of the council by this procedure, such member shall appear and claim the office during the term thereof, then and thereafter the successor's appointment shall cease, without affecting the validity of acts taken by the successor prior to such time.

Section 6. That Section 14 of the 1912 Charter of the city of Duluth, as amended, is hereby amended to read as follows:

Sec. 14. Same--Recordation.

Every ordinance, after its enactment, shall be recorded in the Official Proceedings of the Duluth City Council.

Section 7. That Section 26 of the 1912 Charter of the city of Duluth, as amended, is hereby amended to read as follows:

Sec. 26. City attorney.

The mayor, with the approval of a majority of members of the council, shall appoint a city attorney. The attorney shall be the legal advisor of the council and of the officers of the city and shall, under the direction of the council, prosecute all suits for, and defend all suits brought against, the city, and shall prosecute all persons accused of any violation of city ordinances. The attorney shall perform such other and further duties as are required by the laws of the state, by the provisions of this Charter, or by the council. The council may employ special counsel to assist the attorney in special matters at a compensation to be fixed in advance, and by a two-thirds vote of its entire membership may employ special counsel for itself. The attorney shall have the power to appoint and remove assistant city attorneys. The attorney and assistant city attorneys shall be attorneys admitted to practice in all of the courts of the state of Minnesota.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Section 8. That Section 27 of the 1912 Charter of the city of Duluth, as amended, is hereby amended to read as follows:

Sec. 27. Nonsalaried boards and commissions.

The council may provide, by ordinance, for appropriate nonsalaried boards or commissions which it deems desirable to serve in an advisory capacity, or to perform quasi-judicial functions, or to act as a board of appeal in the administration of regulatory ordinances, or to perform such other proper functions as the council may direct. Among such boards or commissions the council shall provide for a planning commission, a board handling building code appeals, a board of zoning appeals, an airport board, a library board, a board or commission dealing with alcoholic beverage licensing and a park and recreation commission.

Members of all such boards and commissions, including the civil service board, shall be subject to removal by the mayor, for cause, but only after council approval after notice and an opportunity for a hearing before the council.

The cost of sending notices, preparing and distributing minutes and other similar clerical expense actually incurred by nonsalaried boards and commissions shall be borne by the city from the general fund, together with such extraordinary expense as shall be authorized in advance by council resolution.

Section 9. That Section 60(A) of the 1912 Charter of the city of Duluth, as amended, is hereby amended to read as follows:

Sec. 60(A). Special assessment board established; membership; meetings.

A special assessment board is hereby established, consisting of the administrative assistant, who shall be board chairman, the city engineer, the city assessor, the director of public works and utilities and the director of planning and development. During the period of any vacancy in one of these positions, the mayor shall fill the vacant position on the board by appointment of a supervisory employee from the department or office that is temporarily not represented on the board. For purposes of this Section, the offices of director of public works and utilities and director of planning and development shall be deemed vacant whenever the administrative assistant is serving in those capacities.

Three members of this board shall at all times constitute a quorum thereof.

This board shall keep minutes of all hearings conducted by the board and of all meetings held by this board, which minutes shall be signed by the secretary elected by this board, who may or may not be a member of this board, and by the presiding officer, and filed in the Official Proceedings of the Duluth City Council as a permanent record.

Section 10. That Section 68 of the 1912 Charter of the city of Duluth, as amended, is hereby amended to read as follows:

Sec. 68. Certification and approval of assessment roll; publication of assessments; manner of paying assessments.

Within ten days after local improvement as provided in this chapter shall have been completed and accepted by the city, the city engineer shall compute and certify to the city council the cost thereof, including any incidental expenses of publication, mailing, etc., and the city assessor shall certify to the city council an assessment roll. At the next regular meeting thereafter, the city council shall consider and approve said assessment roll, or return said assessment roll to the city assessor with instructions as to any corrections or modifications required. In the

event that said assessment is so returned, the city assessor shall make said corrections and return said assessment roll as corrected to the council prior to its next regular meeting, at which time it shall be considered and approved with or without further amendment and correction by the council.

Within ten days after such approval, the council shall have inserted in the official paper of the city and shall have mailed to each person whose name appears on said assessment roll a notice briefly describing the improvement for which the assessment is made, and stating that the assessment is payable at the treasurer's office at any time within ninety days subsequent to the publication of said notice in the case of assessments which are not eligible for payment in installments, and within forty days subsequent to the publication of said notice in the case of assessments which are eligible for payment in installments, and that unless the same is so paid within said period, or in the case of assessments eligible for payment in installments, an application is made to the city treasurer for an extension of time of payment as herein provided within such 40 day period after the publication of notice, a penalty of ten percent will be added to such assessment. Assessments shall be eligible for payment in installments when so determined by the council, except that an assessment against an owner of property which does not exceed \$15 for each 4,000 square feet or less of property benefited by the improvement, or is less than for any single description of land as shown on the records of the city assessor shall not be so eligible. Within the 40 days after the publication of the notice of assessment, upon application in writing to the city treasurer by any owner of real estate against which an assessment which is eligible for payment in installments is made, the treasurer shall extend the time for paying such assessment in installments extended in the manner determined by the council not to exceed the estimated useful life of the improvement and, in any event, not exceeding 15 in number, payable yearly from 40 days after the date of the approval by the council of said assessment. Each of said installments of extended assessments shall be payable annually from the date the entire assessment would be payable, without penalty, and shall bear interest at a rate not to exceed eight percent per annum, which shall be set each year by resolution of the city council for assessments to be made during such year; provided, however, that if the interest rate the city had to pay to finance the improvements being assessed for exceeds eight percent per annum, the city council may charge an interest rate in excess of eight percent per annum, but not in excess of the interest rate it was required to pay. Such installments of extended assessments, together with the accrued interest thereon, from the first Monday in January following, shall be considered to be delinquent under the next Section of this Charter when they shall severally become due and payable, but not before. Any such installments may be paid prior to its maturity with interest to the date of payment only.

Installment payment of assessments as authorized herein shall be computed in such a way that the minimum installment payment for any single description of land as shown on the records of the city assessor shall be \$10, except for the final payment.

In the event of default in timely payment of an installment assessment levied upon a tract or parcel of land, the council may, at its option, declare all subsequent installment assessments at once due and payable.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Within 18 months after an assessment is confirmed by the city council, the special assessment board is authorized to withdraw such assessment and either extend the time during which the property owner may elect to pay such assessment in installments in those cases where the board is satisfied that good cause exists for such extension, or correct a mathematical error made in the computation of such assessment; provided, however, that whenever such correction results in an increase of the assessment, the affected party shall be given notice by mail of such increased assessment, and such party may, within 14 days after such notice is given, request the special assessment board to submit such increased assessment to the city council for its approval. Upon receipt of such request, the special assessment board shall submit such increased assessment to the city council and the council may approve or disapprove such assessment or make such adjustment to such assessment as it deems appropriate. If the city council approves all or any part of the assessment, the affected party may appeal such assessment within 30 days of the date of the city council's action on the matter, such appeal to be governed by the provisions of this charter relating to appeals from original assessments. Action by the special assessment board pursuant to this paragraph shall be approved by at least three members thereof and a copy of the minutes of the board relating to such action shall be filed with the city clerk, who shall attach such minutes to the assessment roll affected by such action.

Section 11. That Section 70 of the 1912 Charter of the city of Duluth, as amended, is hereby amended to read as follows:

Sec. 70. Same--Statement of delinquencies; enforcement and collection.

In each year the council shall cause to be made a certified statement of the several pieces of land against which assessments have been made and are delinquent, describing the land affected and giving the amount of assessment with penalties added, which certified statement shall be filed with the county auditor of St. Louis County, Minnesota, on or before five working days after December 20 in each year. It shall be the duty of said county auditor to extend said assessments with penalties, as shown by said certified statement, upon the tax rolls of the said county of St. Louis for the taxes of the particular year in which said assessment is filed, and the same for each year ending October 15th shall be carried into the tax becoming due or payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of state and county taxes under and in accordance with the provisions of the general laws of the state, except that in court proceedings to enforce the collection of taxes, no defense as to the validity of any such assessment shall be permitted. Such assessment, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes for state and county purposes under the general laws of the state.

Section 12. That this ordinance shall take effect and be in force 90 days from and after its passage and publication. (Effective date: November 21, 2002)

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

Yeas: Councilors Atkins, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Nays: None -- 0

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Absent: Councilor Bergson -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 12, 2002
Approved August 12, 2002
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9554

BY COUNCILOR ATKINS:

AN ORDINANCE ELIMINATING THE LIMITATION ON THE NUMBER OF TAXI LICENSES ISSUED IN THE CITY OF DULUTH; REPEALING SECTION 47-17.4 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 47-17.4 of the Duluth City Code, 1959, as amended, be repealed in its entirety.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 22, 2002)

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

Yeas: Councilors Atkins, Hogg, Stenberg, Stewart and Stover -- 5

Nays: Councilors Gilbert, Stauber and President Ness -- 3

Absent: Councilor Bergson -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 12, 2002
Approved August 12, 2002
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9555

BY COUNCILOR STENBERG:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO JO-ED PARTNERSHIP FOR AN AWNING OVER THE RIGHT-OF-WAY OF 20TH AVENUE WEST FOR THE HOBART BUILDING AT 1932 WEST MICHIGAN STREET (KLEIMAN).

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 JO-ED Partnership, its successors and interests, referred to herein as the permittees, to occupy, erect and maintain an awning in that part of 20th Avenue West as the same was dedicated to the use of the public and the plat of Duluth Proper Second Division, on file and of record in the office of the Registrar of Deeds in and for the St. Louis County, Minnesota, described as follows: that portion of the 20th Avenue West right-of-way adjacent to Lot 320, Block 16 Duluth Proper 2nd Division described as follows: beginning at the southwest corner of said Lot 320, thence southerly on and along the easterly right-of-way line of 20th Avenue West, a distance of 84 feet to the point of beginning; thence westerly at 90 degrees to said easterly right-of-way line a distance of six feet, thence southerly at 90 degrees and parallel to the easterly right-of-way line of 20th Avenue West a distance of 34 feet, thence easterly at 90

degrees a distance of six feet to the easterly right-of-way; thence northerly along the easterly right-of-way line of 20th Avenue West to the point of beginning.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk; a duly executed and acknowledged written acceptance of the terms of this ordinance; a certificate of insurance approved as to form by the city attorney evidencing that such person or organization has in force insurance in the minimum amounts of \$300,000 for bodily injuries resulting in any year and \$50,000 property damage in any one year protecting such person or organization and the city of Duluth against liability for injuries or damages resulting from the placement of such objects or materials on public sidewalks or boulevard areas. The permission granted by such ordinance shall be conditioned upon such person or organization continuing to supply the city with evidence that such insurance remains in effect and all insurance required herein shall contain a provision that no policy may be canceled until ten days after written notice is given to the city clerk. Such policy shall name the city as an additional insured; and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

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

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said 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 20th Avenue West 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 20th Avenue West.

Section 6. That the permittee shall further observe the following condition: that the necessary building permits be obtained.

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 22, 2002)

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

Yeas: Councilors Atkins, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Nays: None -- 0

Absent: Councilor Bergson -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 12, 2002
Approved August 12, 2002
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9556

BY COUNCILOR STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 33 AND 36 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S SUBURBAN TO R-1-A SINGLE FAMILY RESIDENTIAL, 50 ACRES OF PROPERTY LOCATED NORTHWESTERLY OF THE INTERSECTION OF BLACKMAN AVENUE AND MACFARLANE ROAD (HOVLAND/GREENBRIAR HILLS).

The city of Duluth does ordain:

Section 1. That Plate Nos. 33 and 36 of the zoning district map, as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, are amended to read as follows:

(MAPS)

(see pages 381 and 382)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 22, 2002)

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

Yeas: Councilors Atkins, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Nays: None -- 0

Absent: Councilor Bergson -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 12, 2002
Approved August 12, 2002
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9557

BY PRESIDENT NESS:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOT 27, BLOCK 1, LINCOLN PARK TERRACE TO THE STATE OF MINNESOTA FOR A CONSIDERATION OF \$500.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby sells its right, title and interest to that certain real estate located in St. Louis County, Minnesota, hereinafter described, to the state of Minnesota for \$500 to be deposited in the Permanent Improvement Fund 0411:

Lot 27, Block 1, Lincoln Park Terrace.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: September 22, 2002)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Yeas: Councilors Atkins, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President
Ness -- 8

Nays: None -- 0

Absent: Councilor Bergson -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed August 12, 2002

Approved August 12, 2002

GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, August 19, 2002, 7:05 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stover and President Ness -- 8

Absent: Councilor Stewart -- 1

- - -

BY COUNCILOR STOVER:

RESOLVED, that Midway Contractors, Inc., be and hereby is awarded a contract for the construction of sanitary and storm sewer repairs in Grand Avenue from Elinor Street to 57th Avenue West for the engineering division in accordance with specifications on its low bid of \$386,306.30. \$342,000 is payable out of the Storm Sewer Fund 0535, Dept./Agency 500, Organization 1905, Object 5533; and \$44,306.30 is payable out of the Sanitary Sewer Fund 0531, Dept./Agency 500, Object 5532.

Resolution 02-0553 was unanimously adopted.

Approved August 19, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, by Resolution of Intent Numbered 02-0539, the council did request the administration to prepare plans and specifications for the construction of a permanent street in Marshall Street from Maxwell Avenue westerly to cul-de-sac, approximately 1,300 feet in length, including permanent residential design street with concrete curb and gutter, bituminous surface, storm sewer, sanitary sewer, watermain and gas main (City Job No. 0223TR); and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; proper notice has been sent to the benefitting property owners; the 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 \$584,000, payable from the Special Assessment Fund 0410, Agency 038, Organization 5356, Object 5530; that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 02-0554 was unanimously adopted.

Approved August 19, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0255, by Councilor Stover, awarding a contract to Levine and Son, Inc., for construction of a permanent street, storm and sanitary sewer, watermain and gas main in Marshall Street from Maxwell Avenue westerly to cul-de-sac, in Hartley Estates, Third Addition, in the amount of \$398,436.33, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Councilor Stover moved to amend the resolution by adding the following paragraph at the end of the resolution:

“RESOLVED FURTHER, that the award, implementation and execution of this contract is conditional upon receipt by the city of all necessary permits from Minnesota pollution control agency,”

which motion was seconded and unanimously carried.

Resolution 02-0555, as amended, was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for the permanent street, storm and sanitary sewer, watermain and gas main in Marshall Street from Maxwell Avenue westerly to cul-de-sac in Hartley Estates, Third Addition, in the amount of \$398,436.33 payable from the Special Assessment Fund 0410 (City Job No. 0223TR).

RESOLVED FURTHER, that the award, implementation and execution of this contract is conditional upon receipt by the city of all necessary permits from Minnesota pollution control agency.

Resolution 02-0555, as amended, was unanimously adopted.

Approved August 19, 2002

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 7:21 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, August 22, 2002, 5:14 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0822-01 Evenson Dodge, financial consultants, submitting bid results in connection with issuance of \$7,250,000 G.O. utilities revenue bonds, Series 2002C; \$3,860,000 G.O. street improvement bonds, Series 2002D; \$1,08,000 G.O. improvement refunding bonds, Series 2002E; \$635,000 G.O. tax increment refunding bonds, Series 2002F (02-0559R, 02-0560R, 02-0561R, 02-0562R). -- Received

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR HOGG:

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

Section 1. Bond purpose and authorization.

1.01 The city has previously issued its \$2,495,000 general obligation improvement bonds dated October 1, 1993 (the 1993 bonds). The 1993 bonds were authorized and issued pursuant to the City Charter and Minnesota Statutes, Chapter 475.

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the act) and Section 475.67, Subdivisions 1 through 4 of the act, the city is authorized to issue and sell its general obligation bonds to refund obligations and the interest thereon before the due date of the obligations, if consistent with covenants made with the holders thereof, when determined by the city to be necessary or desirable for the reduction of debt service cost to the city or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 It is necessary and desirable that in order to reduce debt service costs the city issue \$1,080,000 General Obligation Improvement Refunding Bonds, Series 2002E (the bonds), to refund that portion of the 1993 bonds maturing on and after February 1, 2003 (the refunded bonds), of which \$1,055,000 in principal amount is prepayable on October 1, 2002 (the redemption date).

1.04 Evensen Dodge, Inc., financial consultant to the city, has given notification to at least five firms determined by Evensen Dodge, Inc., to be prospective bidders on the bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the bonds, pursuant to and in accordance with Minnesota Statutes, Section 475.60, Subd. 3. All actions of the mayor, the clerk and Evensen Dodge, Inc., taken with regard to the sale of the bonds are hereby ratified and approved.

1.05 Pursuant to such solicitation for bids for the sale of the bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Morgan Stanley Dean Witter, Inc., of Chicago, Illinois (the purchaser), to purchase the bonds at a cash price of \$1,076,339.95, plus accrued interest on the total principal amount from September 1, 2002, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

the purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of bonds.

2.01 The bonds to be issued hereunder shall be dated September 1, 2002, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The bonds shall mature on February 1 in the respective years and amounts stated and shall bear interest as follows:

	Amount	Interest Rate
2003	\$185,000	2.25%
2004	185,000	2.25%
2005	185,000	2.25%
2006	180,000	2.50%
2007	175,000	3.00%
2008	170,000	3.15%

2.02 The bonds are not subject to redemption prior to maturity.

2.03 Interest on the bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an interest payment date), commencing February 1, 2003. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The bond registrar designated below shall make all interest payments with respect to the bonds by check or draft mailed to the registered owners of the bonds shown on the bond registration records maintained by the bond registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the interest payment date at such owners' addresses shown on such bond registration records.

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

(b) The city clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each bond, together with a certificate to be signed by the manual or facsimile signature of the city clerk in substantially the form set forth in Section 2.11. The city clerk is authorized and directed to execute the certificate in the name of the city upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the city offices.

2.05 The city hereby appoints Wells Fargo 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). To provide for the bond registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 02-0822-02. No bond shall be valid or obligatory

for any purpose until the bond registrar's authentication certificate on such bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the bond registrar. Authentication certificates on different bonds need not be signed by the same representative. The manual signature of one officer of the city or the executed authentication certificate on each bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the bonds eligible for the services provided by The Depository Trust Company, New York, New York (DTC), the city has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the city and DTC (the representation letter).

(b) All of the bonds shall be registered in the name of Cede and Company, as nominee for DTC. Payment of interest on and principal of any bond registered in the name of Cede and Company 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 and Company 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 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 REFUNDING BOND
SERIES 2002E

R-___ \$ _____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
%	February 1, _____	September 1, 2002	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from September 1, 2002, 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, 2003. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank 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 \$1,080,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475 and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on August 22, 2002 (the "Resolution"), and is issued for the purpose of providing money to refund the outstanding principal amount of the \$2,495,000 General Obligation Improvement Bonds dated October 1, 1993. The Bonds are payable primarily from special assessments levied against properties specially benefitted by local improvements. The principal and interest on the Bonds will be payable from a special fund of the City entitled "2002 Improvement Refunding Bond Account" in the Special Assessment Debt Service Fund.

The Bonds are not subject to redemption prior to maturity.

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the facsimile signatures of the Mayor and the City Clerk.

Attest:

Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

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

Date	Registered Owner	Signature of Bond Registrar
9/__/02	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)

Unless this bond is presented by an authorized representative of The Depository Trust Company, a New York corporation (DTC), to the city or its agent for registration of transfer, exchange, or payment, and any bond issued

is registered in the name of Cede and Company such other name as is requested by an authorized representative of DTC (and any payment is made to Cede and Company or to such other entity as is requested by an authorized representative of DTC), any transfer, pledge, or other use hereof for value or otherwise by or to any person is wrongful, inasmuch as the registered owner hereof, Cede and Company, has an interest herein.

Section 3. Covenants, accounts and representations.

3.01 (a) The bonds are payable from the 2002 improvement refunding bond account (the debt service fund) hereby created within the city's special assessment debt service fund, and the proceeds of special assessments levied for the projects listed in Section 1.02 of the 1993 resolution are pledged to the debt service fund.

(b) The proceeds of the bonds, not including (i) any capitalized interest financed from bond proceeds; (ii) any amount over the minimum purchase price of the bonds paid by the purchaser as additional interest pursuant to Minnesota Statutes, Section 475.56; (iii) accrued interest; and (iv) any proceeds to pay costs of issuance of the bonds, paid by the purchaser upon closing and delivery of the bonds are hereby irrevocably appropriated to the debt service fund heretofore established for the 1993 bonds (the 1993 debt service fund) in amounts which together with available funds therein shall be used solely to (a) pay the interest due on the refunded bonds on the redemption date and (b) redeem the refunded bonds on the redemption date. Upon redemption of the refunded bonds on the redemption date, the 1993 debt service fund shall be terminated, and all monies remaining therein not required to refund the refunded bonds shall be transferred to the debt service fund. The city treasurer is authorized to pay the costs of issuance of the bonds.

(c) There is hereby appropriated to the debt service fund any amount over the minimum purchase price of the bonds paid by the purchaser and all accrued interest paid by the purchaser upon closing and delivery of the bonds.

3.02 The city council hereby declares that it has assessed against benefitted property not less than 20 percent of the cost of the projects financed by the 1993 bonds. The city further declares that it has completed the special assessment process, including any and all supplemental assessments or reassessments that were required to lawfully assess the benefitted property.

3.03 It is hereby determined that upon the receipt of proceeds of the bonds (the proceeds) for payment of the refunded bonds that an irrevocable appropriation to the 1993 debt service fund shall have been made within the meaning of Section 475.61, Subdivision 3 of the act and the clerk is hereby authorized and directed to certify such fact to and request the county auditor to cancel any and all tax levies made by the resolution authorizing and approving the refunded bonds adopted October 7, 1993 (the 1993 Resolution).

3.04 (a) It is hereby determined that the estimated collections of special assessments levied against benefitted properties pledged for payment of the principal of and interest on the bonds will produce sums not less than 5 percent in excess of the amounts needed to meet when due the principal and interest payments on such portion of the Bonds, and accordingly, no tax is levied by this resolution for that purpose.

(b) All proceeds of said special assessments and taxes set out in Sections 3.04(a) are hereby appropriated and shall be paid when collected into the 2002 improvement refunding bond account within the special assessment debt service fund.

(c) Under the provisions of Minnesota Statutes, Sections 475.61 and 475.74, the city's liability on the bonds is not limited to the foregoing sources of payment, and the city council

will and shall levy upon all taxable property within the corporate limits of the city, and cause to be extended, assessed and collected, any taxes found necessary for full payment of the principal and interest, without limitation as to the rate or amount. If any payment of principal or interest on the bonds shall become due when there is not sufficient money in the debt service fund to pay the same, the treasurer shall pay such principal or interest from the general fund of the city, and the general fund shall be reimbursed for such advances out of the proceeds of the taxes levied by this resolution, when collected.

Section 4. Refunding, findings, prepayment of refunded bonds.

4.01 It is hereby found and determined that based upon information presently available from the city's financial advisers, the issuance of the bonds is consistent with covenants in the 1993 resolution and is necessary and desirable for the reduction of debt service cost to the city.

4.02 It is hereby found and determined that the proceeds and other available funds of the city will be sufficient to prepay all of the principal of and interest on the 1993 bonds due on the redemption date and the principal of the refunded bonds on the redemption date.

4.03 The refunded bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of notice of call for redemption on file with the city clerk as Public Document No. 02-0822-03, which terms and conditions are hereby approved and incorporated herein by reference. The clerk or his designee is hereby authorized and directed to forthwith, no later than 30 days prior to the redemption date, to send written notice of call to the registered owners and paying agent of the refunded bonds and to publish notice as provided in the 1993 resolution.

4.04 When the principal of the refunded bonds and all interest thereon have been discharged as provided in this section, all pledges, covenants and other rights granted by this resolution to the holders of the refunded bonds shall cease, except that the pledge of the full faith and credit of the city for the prompt and full payment of the principal and interest on the refunded bonds shall remain in full force and effect. The city may discharge all refunded bonds by depositing with the bond registrar on or before the redemption date a sum sufficient for the payment thereof in full. If any bond should not be paid when due, it shall nevertheless be discharged by depositing with the bond registrar a sum sufficient for the payment thereof in full with interest accrued to the redemption date.

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

Section 6. Tax covenants.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

interest on the bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the bonds and investment earnings thereon on certain specified purposes.

6.02 (a) The proceeds of the 1993 bonds have been totally expended for the governmental purpose for which issued; the gross proceeds of the bonds will, within 90 days of the date of issuance of the bonds, have been totally expended for the purpose of refunding the outstanding principal amount of the refunded bonds and interest thereon and paying costs of issuance of the bonds. Therefore, no rebate of arbitrage profit is required under the internal revenue code of 1986, as amended (the code).

(b) In addition, the proceeds of the bonds and money in the debt service funds shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the bonds to be federally guaranteed within the meaning of Section 149(b) of the code.

(c) The city hereby covenants not to use the proceeds of the bonds, or to cause or permit them to be used, in such a manner as to cause the bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the code.

(d) The city expects that all proceeds of the bonds will be expended within six months of the date of issue of the bonds.

Resolution 02-0559 was unanimously adopted.

Approved August 22, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

Section 1. Bond purpose and authorization.

1.01 (a) Under and pursuant to the provisions of Chapter 475 of Minnesota Statutes and other pertinent provisions of Minnesota Statutes and the home rule charter of the city, the city is authorized to issue its general obligation street improvement bonds to finance the cost of local public improvements, and the city council may pledge the full faith and credit and taxing powers of the city for the payment of the principal and interest on such indebtedness.

(b) The city council has, by resolution adopted on the following date, ordered street improvements to certain streets, avenues and parkways set forth below (the 2002 street improvement program), as more fully described in reports filed with the city clerk by the special assessment board pursuant to and in accordance with Section 61(b) of the City Charter, and the council has determined to defray one-fourth or less of the cost of the improvements set forth below to be assessed against benefitted property or paid from community development block grants:

Order in Resolution No.	Date Resolution Passed	Assessable Cost/CDBG Funds	Project Description
01-0219(b)	4/24/01	\$945,107	Congdon Park - West Lower 2 Kenwood - Lower Lakeside - Central 2 Ramsey - North Woodland - West

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

(c) The city council hereby determines to finance \$3,860,000, through the issuance of general obligation improvement bonds, for payment of costs of the 2002 street improvement program.

1.02 Pursuant to the authority herein recited, the city authorizes and directs the issuance and sale of \$3,860,000 General Obligation Street Improvement Bonds, Series 2002D, to be dated September 1, 2002, as the date of original issue (the bonds) for financing the 2002 street improvement program.

1.03 Evensen Dodge, Inc., financial consultant to the city, has given notification to at least five firms determined by Evensen Dodge, Inc., to be prospective bidders on the bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the bonds, pursuant to and in accordance with Minnesota Statutes, Section 475.60, Subd. 3. All actions of the mayor, the clerk and Evensen Dodge, Inc., taken with regard to the sale of the bonds are hereby ratified and approved.

1.04 Pursuant to such solicitation for bids for the sale of the bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of U.S. Bancorp Piper Jaffray Inc., of Minneapolis, Minnesota (the purchaser), to purchase the bonds at a cash price of \$3,827,884.80, plus accrued interest on the total principal amount from September 1, 2002, to the date of delivery of the bonds and upon condition that the bonds mature and bear interest at the times and annual rates set forth in Section 2. The city, after due consideration, finds such offer reasonable and proper and the offer of the purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the city a contract for the sale of the bonds in accordance with the purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of bonds.

2.01 The bonds to be issued hereunder shall be dated September 1, 2002, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The bonds shall mature on February 1 in the respective years and amounts stated and shall bear interest as follows:

Year	Amount	Interest Rate
2004	\$285,000	2.500%
2005	200,000	2.500%
2006	205,000	2.750%
2007	210,000	3.000%
2008	215,000	3.250%
2009	220,000	3.250%
2010	235,000	3.500%
2011	245,000	3.600%
2012	255,000	3.700%
2013	265,000	3.800%
2014	275,000	4.125%
2015	290,000	4.250%
2016	305,000	4.250%
2017	320,000	4.375%

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Year	Amount	Interest Rate
2018	335,000	4.450%

2.02 (a) The bonds maturing in the years 2004 through 2011 shall not be subject to optional redemption and prepayment before maturity, but those maturing in the year 2012 and in subsequent years shall each be subject to redemption and prepayment at the option of the city on February 1, 2011, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the city and by lot as to the bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date.

(b) In the event any of the bonds are called for redemption, notice thereof identifying the bonds to be redeemed will be given by the bond registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each bond to be redeemed at the address shown on the registration books kept by the bond registrar; provided however, that so long as the bonds are registered in the name of Cede and Company as nominee of The Depository Trust Company, New York, New York (DTC), notice of redemption shall be given in accordance with the terms of the representation letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

(c) If less than all the bonds of a maturity are called for redemption while the bonds are registered in the name of Cede and Company, the city or the bond registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the bonds of a maturity are called for redemption and the bonds are not registered in the name of Cede and Company, the bond registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 Interest on the bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an Interest payment date), commencing August 1, 2003. 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 rule making 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 and Frederick, P.A., of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each bond, together with a certificate to be signed by the manual signature of the city clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The city clerk is authorized and directed to execute the certificate in the name of the city upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the city offices.

2.05 The city hereby appoints Wells Fargo Bank 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). To provide for the bond registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 02-0822-04. 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 and Company, as nominee for DTC. Payment of interest on and principal of any bond registered in the name of Cede and Company 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 and Company on each interest payment date at the address indicated in or pursuant to the representation letter.

(d) 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the bonds.

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

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

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

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

CITY OF DULUTH
GENERAL OBLIGATION STREET IMPROVEMENT BOND, SERIES
2002D

R-__ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	September 1, 2002	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The city of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from September 1, 2002, 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, 2003. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the city council. The Bond Registrar

shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$3,860,000, 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 August 22, 2002 (the "Resolution"). The Bonds are issued for the purposes of financing a portion of the cost of local public improvements and are issued pursuant to Minnesota Statutes, Chapter 475, the City Charter and other pertinent provisions of Minnesota statutes 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 of this series maturing in the years 2004 through 2011 are not subject to redemption before maturity, but those maturing, or subject to mandatory redemption, in the year 2012 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2011, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each

participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond, a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

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

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

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

IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this Bond to be executed in its name by the signatures of the mayor and the city clerk.

Attest:

City Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

WELLS FARGO BANK 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 Wells Fargo 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	Registered Owner	Signature of Bond Registrar
9/__/02	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto _____
(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

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

Dated: _____.

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

Signature Guaranteed:

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

Unless this bond is presented by an authorized representative of The Depository Trust Company, a New York corporation (DTC), to the city or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede and Company or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede and Company or to such other entity as is requested by an authorized representative of DTC), any transfer, pledge or other use hereof for value or otherwise by or to any person is wrongful, inasmuch as the registered owner hereof, Cede and Company, has an interest herein.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Section 3. Revenues, accounts and covenants.

3.01 Upon payment of the purchase price of the bonds, the city shall credit the proceeds from the sale of the bonds in the amount of \$3,827,884.80 into the 2002 street improvement account (the 2002 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 2002 street account from time to time as required, upon presentation of properly verified vouchers or statements of account, such amount or amounts as may be required to pay the cost of the improvements. The costs of issuance for the bonds shall be paid from the 2002 street account.

3.02 The city council covenants and agrees with the holders of the bonds and with its taxpayers that it will assess against benefitted property the cost of the improvements to the city for the 2002 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 percent of the costs of such projects financed by the proceeds of the bonds. The city council further covenants and agrees that, with due diligence, it will complete the special assessment process, including any and all supplemental assessments or reassessments that may be required to lawfully assess the benefitted property.

3.03 A separate account within the special assessment debt service fund maintained by the city is hereby created and is designated the 2002 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 2002 improvement bond account shall be paid from the proceeds of the bonds capitalized interest in the amount of \$-0-, plus the amount of accrued interest on the bonds, all special assessments levied for the projects listed in Section 1.01 hereof and the ad valorem taxes levied pursuant to Section 3.04 hereof.

3.04 (a) The full faith and credit and taxing power of the city are hereby irrevocably pledged for the prompt and full payment of the principal of and interest on the bonds, as such principal and interest respectively become due. To provide monies for the payment of the principal and interest on the bonds, there is hereby levied a direct, annual ad valorem tax upon all taxable property within the city which shall be extended upon the tax rolls and collected with and part of the other general property taxes of the city for the years and in the amounts as follows:

Levy Year	Collection Year	Gross Tax Levy	Estimated Special Assessment Revenue	Net Tax Levy
2002	2003	\$ 507,929.53	\$ (359,095.92)	\$ 148,833.61
2003	2004	\$ 349,821.95	\$ (76,856.00)	\$ 272,965.95
2004	2005	\$ 349,821.95	\$ (74,688.00)	\$ 275,133.95
2005	2006	\$ 349,152.57	\$ (72,520.00)	\$ 276,632.57
2006	2007	\$ 347,787.57	\$ (70,352.00)	\$ 277,435.57
2007	2008	\$ 345,700.70	\$ (68,184.00)	\$ 277,516.70
2008	2009	\$ 353,943.20	\$ (71,016.00)	\$ 282,927.20
2009	2010	\$ 355,806.95	\$ (68,577.00)	\$ 287,229.95
2010	2011	\$ 357,045.95	\$ (71,138.00)	\$ 285,907.95
2011	2012	\$ 357,639.20	\$ (68,428.00)	\$ 289,211.20
2012	2013	\$ 357,565.70	\$ (65,718.00)	\$ 291,847.70

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Levy Year	Collection Year	Gross Tax Levy	Estimated Special Assessment Revenue	Net Tax Levy
2013	2014	\$ 361,404.75	\$ (68,008.00)	\$ 293,396.75
2014	2015	\$ 364,213.50	\$ (70,027.00)	\$ 294,186.50
2015	2016	\$ 366,352.87	\$ (66,775.00)	\$ 299,577.87
2016	2017	\$ 367,402.87	\$ (68,523.00)	\$ 298,879.87

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 percent in excess of the amount needed to meet when due the principal and interest on the bonds.

Such tax levies shall be irrevocable as long as any of the bonds issued hereunder are outstanding and unpaid; provided, however, that in each year while any bonds issued hereunder remain outstanding, the city council shall reduce or cancel the above levies to the extent of an irrevocable appropriation to said debt service account of monies actually on hand for payment of the principal and interest payable in the ensuing year and shall direct the county auditor to reduce the levy for such calendar year by that amount.

(b) All proceeds of the special assessments from the properties described in Section 1.01 hereof and said taxes are hereby appropriated and shall be paid when collected into the 2002 improvement bond account within the special assessment debt service fund. If the balance in the 2002 improvement bond account is ever insufficient to pay all principal and interest then due on the bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the city which are available for that purpose, and such other funds shall be reimbursed from the 2002 improvement bond account when the balance therein is sufficient.

3.05 Proceeds of the bonds on deposit in the 2002 Street Account and 2002 improvement bond account may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the bonds when due.

Section 4. Tax covenants; miscellaneous.

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

4.02 (a) No portion of the proceeds of the bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the bonds were issued. To this effect, any proceeds of the bonds and any sums from time to time held in such debt service account (or any other city account which will be used to pay principal and interest to become due on the bonds) in excess of amounts

which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

(b) In addition, the proceeds of the bonds and money in such debt service account shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the bonds to be federally guaranteed within the meaning of Section 149(b) of the internal revenue code of 1996, as amended (the code).

(c) The city hereby covenants not to use the proceeds of the bonds, or to cause or permit them to be used, in such a manner as to cause the bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the code.

4.03 (a) Pursuant to Section 1.148-7(d) of the treasury regulations, relating to exception from rebate, the city hereby covenants that with respect to the gross proceeds of the bonds, the following schedule will be met: (i) at least 15 percent 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 percent of such proceeds will be allocated for such purposes within the one year period of such date; and (iii) 100 percent of such proceeds will be allocated for such purposes within the 18 month period beginning on such date; subject to an exception for reasonable retainage of 5 percent of the available proceeds of the bonds, and that 100 percent 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 02-0560 was unanimously adopted.
Approved August 22, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

Section 1. Bond purpose and authorization.

1.01 The city council has determined it to be necessary and expedient and in the public interest that the city construct and equip a public utilities facility on Garfield Avenue to provide garage and office facilities for the gas utility, the water utility, the sewer utility and the stormwater utility (the project). The city staff has prepared and presented to the council a detailed analysis of the projected use of the project by each utility which forms the basis for the allocation of the development costs for the project to each utility. The allocation of costs for the project to each utility are set forth in the following paragraphs in Section 1, based on the estimated construction costs for the project.

1.02 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Statutes, Sections 115.46 and 444.075 and Chapter 475, and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the payment of costs of improvements to the municipal sewer utility (including bonds representing part of the interest cost of the issue, within the limitations specified in Minnesota Statutes, Section 475.56), which bonds shall be a specific lien upon the sewer utility and are payable primarily from net revenues to be derived from the operation of the municipal sewer utility and pledged for their payment.

1.03 The city council has, by Ordinance No. 9545 adopted July 8, 2002, ordered the issuance, sale and delivery of general obligation sewer utility revenue bonds in the maximum amount of \$2,065,000 of the city, for the payment of the costs of improvements to the municipal sewer utility's portion of the costs of the project and for payment of part of the interest cost of the bonds. \$2,003,000 of the bonds (the sewer portion of the bonds) are hereby allocated to the municipal sewer utility.

1.04 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Statutes, Chapter 475, and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the payment of costs of improvements to the municipal gas utility (including bonds representing part of the interest cost of the issue, within the limitations specified in Minnesota Statutes, Section 475.56), which bonds shall be a specific lien upon the gas utility and are payable primarily from net revenues to be derived from the operation of the municipal gas utility and pledged for their payment.

1.05 The city council has, by Ordinance No. 9546 adopted July 8, 2002, ordered the issuance, sale and delivery of general obligation gas utility revenue bonds in the maximum amount of \$2,200,000 of the city, for the payment of the costs of improvements to the municipal gas utility's portion of the costs of the project and for payment of part of the interest cost of the bonds. \$2,132,000 of the bonds (the gas portion of the bonds) are hereby allocated to the municipal gas utility.

1.06 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Statutes, Section 444.075 and Chapter 475, and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the payment of costs of improvements to the municipal water utility (including bonds representing part of the interest cost of the issue, within the limitations specified in Minnesota Statutes, Section 475.56), which bonds shall be a specific lien upon the water utility and are payable primarily from net revenues to be derived from the operation of the municipal water utility and pledged for their payment.

1.07 The city council has, by Ordinance No. 9543 adopted July 8, 2002, ordered the issuance, sale and delivery of general obligation water utility revenue bonds in the maximum amount of \$1,745,000 of the city, for the payment of the costs of improvements to the municipal water utility's portion of the costs of the project and for payment of part of the interest cost of the bonds. \$1,690,000 of the bonds (the water portion of the bonds) are hereby allocated to the municipal water utility.

1.08 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Statutes, Section 444.075 and Chapter 475, and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the payment of costs of improvements to the municipal stormwater utility (including bonds representing part of the interest cost of the issue, within the limitations specified in Minnesota Statutes, Section 475.56), which bonds shall be a specific lien upon the stormwater utility and are payable primarily from net revenues to be derived from the operation of the municipal stormwater utility and pledged for their payment.

1.09 The city council has, by Ordinance No. 9544 adopted July 8, 2002, ordered the issuance, sale and delivery of general obligation stormwater utility revenue bonds in the maximum amount of \$1,470,000 of the city, for the payment of the costs of improvements to the municipal stormwater utility's portion of the costs of the project and for payment of part of the interest cost of the bonds. \$1,425,000 of the bonds (the stormwater portion of the bonds) are hereby allocated to the municipal stormwater utility.

1.10 The city council has determined that it is necessary and expedient that the city issue such municipal utilities bonds in a single issuance of \$7,250,000 General Obligation Utilities Revenue Bonds, Series 2002C (the bonds) to finance the project.

1.11 Evensen Dodge, Inc., financial consultant to the city, has given notification to at least five firms determined by Evensen Dodge, Inc., to be prospective bidders on the bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the bonds, pursuant to and in accordance with Minnesota Statutes, Section 475.60, Subd. 3. All actions of the mayor, the clerk and Evensen Dodge, Inc., taken with regard to the sale of the bonds are hereby ratified and approved.

1.12 Pursuant to such solicitation for bids for the sale of the bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of U.S. Bancorp Piper Jaffray, Inc., of Minneapolis, Minnesota (the purchaser), to purchase the bonds at a cash price of \$7,201,642.50, plus accrued interest on the total principal amount from September 1, 2002, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

the purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of bonds.

2.01 The bonds to be issued hereunder shall be dated September 1, 2002, 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 are hereby allocated to each of the following utilities and shall mature on February 1 in the respective years and amounts stated and shall bear interest as follows:

Year	Sewer Portion of the Bonds	Gas Portion of the Bonds	Water Portion of the Bonds	Stormwater Portion of the Bonds	Principal Amount of the Bonds	Interest Rate
2004	\$104,000	\$110,000	\$87,000	\$74,000	\$375,000	2.500%
2005	105,000	112,000	88,000	75,000	380,000	2.500%
2006	108,000	115,000	91,000	76,000	390,000	2.750%
2007	112,000	119,000	94,000	80,000	405,000	3.000%
2008	116,000	123,000	98,000	83,000	420,000	3.250%
2009	120,000	129,000	101,000	85,000	435,000	3.250%
2010	124,000	132,000	105,000	89,000	450,000	3.500%
2011	130,000	138,000	110,000	92,000	470,000	3.600%
2012	136,000	144,000	114,000	96,000	490,000	3.700%
2013	141,000	150,000	119,000	100,000	510,000	4.000%
2014	148,000	158,000	124,000	105,000	535,000	4.125%
2015	153,000	163,000	130,000	109,000	555,000	4.250%
2016	162,000	172,000	136,000	115,000	585,000	4.250%
2017	168,000	179,000	143,000	120,000	610,000	4.375%
2018	176,000	188,000	150,000	126,000	640,000	4.450%

2.02 (a) The bonds maturing in the years 2004 through 2011 shall not be subject to optional redemption and prepayment before maturity, but those maturing in the year 2012 and in subsequent years shall each be subject to redemption and prepayment at the option of the city on February 1, 2011, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the city and by lot as to the bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date.

(b) In the event any of the bonds are called for redemption, notice thereof identifying the bonds to be redeemed will be given by the bond registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each bond to be redeemed at the address shown on the registration books kept by the bond registrar; provided however, that so long as the bonds are registered in the name of Cede and Company as nominee of The Depository Trust Company, New York, New York (DTC), notice of redemption shall be given in accordance with the terms of the representation letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of bonds not affected by such defect or failure. bonds so called for redemption

will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

(c) If less than all the bonds of a maturity are called for redemption while the bonds are registered in the name of Cede and Company, the city or the bond registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the bonds of a maturity are called for redemption and the bonds are not registered in the name of Cede and Company, the bond registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 Interest on the bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an interest payment date), commencing February 1, 2003. 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 rule making 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 and Frederick, P.A., of Duluth, Minnesota, which is to be complete, and cause the opinion to be attached to each bond, together with a certificate to be signed by the manual signature of the city clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The city clerk is authorized and directed to execute the certificate in the name of the city upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the city offices.

2.05 The city hereby appoints Wells Fargo Bank 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). To provide for the bond registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 02-0822-08. 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 and Company, as nominee for DTC. Payment of interest on and principal of any bond registered in the name of Cede and Company 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 and Company on each interest payment date at the address indicated in or pursuant to the representation letter.

(c) Additional matters with respect to, among other things, notices, consents and approvals by bond holders and payments on the bonds are set forth in the representation letter.

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

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

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

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

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

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

CITY OF DULUTH
GENERAL OBLIGATION UTILITIES REVENUE BOND, SERIES 2002C

R-___

\$_____

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	September 1, 2002	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from September 1, 2002, 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, 2003. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank 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 \$7,250,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to a resolution adopted on August 22, 2002, by the governing body of the City (the "Resolution"). The Bonds are issued to finance a joint public utilities service center for the municipal sewer, gas, water and stormwater utilities (the "Project") and consist of four separate bond issues:

- (i) That portion of the Bonds (\$2,003,000) issued for improvements to the municipal sewer utility are issued pursuant to the authority contained in Minnesota Statutes, Chapter 475, and Sections

115.46 and 444.075 and Section 55 of the Home Rule Charter of the City, and all other laws and charter provisions thereto enabling and pursuant to Ordinance No. 9545 adopted July 8, 2002, for the purpose of providing funds for constructing and equipping the municipal sewer utility's portion of the Project and for payment of part of the interest cost of such bond issue. That portion of the Bonds issued for the municipal sewer utility 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 portion of the Bonds issued for the sewer utility, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the portion of the Bonds issued for the sewer utility.

(ii) That portion of the Bonds (\$2,132,000) issued for improvements to the municipal gas utility are issued pursuant to the authority contained in Minnesota Statutes, Chapter 475 and Section 55 of the Home Rule Charter of the City, and all other laws and charter provisions thereunto enabling, and pursuant to Ordinance No. 9546 adopted on July 8, 2002, for the purpose of providing funds for constructing and equipping the municipal gas utility's portion of the Project and for payment of part of the interest cost of said bond issue. That portion of the Bonds issued for improvements to the municipal gas utility are payable primarily from the net revenues to be derived from the operation of the municipal gas 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 gas utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the portion of the Bonds issued for the gas utility, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal gas utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the

principal and interest due on the portion of the Bonds issued for the gas utility.

(iii) That portion of the Bonds (\$1,690,000) issued for improvements to the municipal water utility are issued pursuant to the authority contained in Minnesota Statutes, Chapter 475, and Section 444.075 and Section 55 of the Home Rule Charter of the City, and all other laws and charter provisions thereto enabling and pursuant to Ordinance No. 9543 adopted July 8, 2002, for the purpose of providing funds for constructing and equipping the municipal water utility's portion of the Project and for payment of part of the interest cost of such bond issue. That portion of the Bonds issued for the municipal water utility are payable from the net revenues to be derived from the operation of the municipal water utility of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the municipal water utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the portion of the Bonds issued for the water utility, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal water utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the portion of the Bonds issued for the water utility.

(iv) That portion of the Bonds (\$1,425,000) issued for improvements to the municipal stormwater utility are issued pursuant to the authority contained in Minnesota Statutes, Chapter 475, and Section 444.075 and Section 55 of the Home Rule Charter of the City, and all other laws and charter provisions thereto enabling and pursuant to Ordinance No. 9544 adopted July 8, 2002, for the purpose of providing funds for constructing and equipping the municipal stormwater utility's portion of the Project and for payment of part of the interest cost of such bond issue. That portion of the Bonds issued for the municipal stormwater utility are payable from the net revenues to be derived from the operation of the municipal stormwater 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 stormwater utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the portion of the Bonds issued for the stormwater utility,

and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal stormwater utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the portion of the Bonds issued for the stormwater utility.

The Bonds of this series maturing in the years 2004 through 2011 are not subject to redemption before maturity, but those maturing, or subject to mandatory redemption, in the year 2012 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2011, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

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

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

IN WITNESS WHEREOF, the City of Duluth, by its city council, has caused this Bond to be executed in its name by the signatures of the mayor and the city clerk.

Attest:

Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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

Date	Registered Owner	Signature of Bond Registrar
9/___/02	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
_____ attorney
to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

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

Signature Guaranteed:

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

Unless this bond is presented by an authorized representative of The Depository Trust Company, a New York corporation (DTC), to the city or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede and Company, or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede and Company, or to such other entity as is requested by an authorized representative of DTC), any transfer, pledge or other use hereof for value or otherwise by or to any person is wrongful, inasmuch as the registered owner hereof, Cede and Company, has an interest herein.

Section 3. Revenues, accounts and covenants.

3.01 Construction fund. The city hereby creates a separate construction fund entitled "Public Utilities Service Center Construction Fund (Fund 0522)" to which there shall be credited the proceeds of the bonds, less accrued interest, together with any additional funds which may be available and are appropriated for the costs of the project. This fund shall be used only to pay expenses duly approved and allowed, which, under generally accepted accounting principles, constitute capital expenditures for the completion of the project, and costs of the issuance of the Bonds.

3.02 Sewer portion of the bonds.

(a) The city council covenants and agrees with the holders of the bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the sewer portion of the bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the municipal sewer utility and segregate and account for the revenues thereof as provided in this section.

The city will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal sewer utility in a separate sewer utility operating account within the public utility sewer fund maintained under Section 54 of the City Charter. Except as provided in this section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal sewer utility, and to maintain such reasonable reserves for such expenses as the director of finance shall determine to be necessary from time to time in accordance with policies established by the city council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all sewer utility bonds when due.

(b) Until the sewer portion of 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 utility sewer fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the sewer portion of the bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the sewer utility. The treasurer shall credit to the sewer debt service fund the amount of accrued interest on the sewer portion of the bonds. The treasurer shall transfer from the sewer utility operating account to the sewer debt service fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the sewer portion of the bonds, and a pro rata portion of all charges due to the bond registrar. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the city council.

(c) 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.

3.03 Gas portion of the bonds.

(a) The city council covenants and agrees with the holders of the bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal gas 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 gas portion of the bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the municipal gas 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 gas utility in a separate gas utility operating account within the public utility gas 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 gas 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 gas utility bonds when due.

(b) Until the gas portion of 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 gas debt service fund) in the public utility gas fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the gas portion of the bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the gas utility. The treasurer shall credit to the gas debt service fund the amount of accrued interest on the gas portion of the bonds. The treasurer shall transfer from the gas utility operating account to the gas debt service fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the gas portion of the bonds, and a pro rata portion of all charges due to the bond registrar. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the city council.

(c) Surplus utility revenues from time to time received in the gas utility operating account, in excess of payments due from and reserves required to be maintained in the gas utility operating account and in the gas debt service fund, may be used for necessary capital expenditures for the improvement of the municipal gas utility, for the prepayment and redemption of bonds constituting a lien on the municipal gas utility, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

3.04 Water portion of the bonds.

(a) The city council covenants and agrees with the holders of the bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal water utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the water portion of the bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the municipal water utility and segregate and account for the revenues thereof as provided in this section.

The city will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal water utility in a separate water utility operating account within the public utility water fund maintained under Section 54 of the City Charter. Except as provided in this section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal water utility, and to maintain such reasonable reserves for such expenses as the director of finance shall determine to be necessary from time to time in accordance with policies established by the city council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all water utility bonds when due.

(b) Until the water portion of 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 water debt service fund) in the public utility water fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the water portion of the bonds and on any other bonds which have been or may be issued and

made payable from said net revenues of the water utility. The treasurer shall credit to the water debt service fund the amount of accrued interest on the water portion of the bonds. The treasurer shall transfer from the water utility operating account to the water debt service fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the water portion of the bonds, and a pro rata portion of all charges due to the bond registrar. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the city council.

(c) Surplus utility revenues from time to time received in the water utility operating account, in excess of payments due from and reserves required to be maintained in the water utility operating account and in the water debt service fund, may be used for necessary capital expenditures for the improvement of the municipal water utility, for the prepayment and redemption of bonds constituting a lien on the municipal water utility, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

3.05 Stormwater portion of the bonds.

(a) The city council covenants and agrees with the holders of the bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal stormwater 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 stormwater portion of the bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the municipal stormwater 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 stormwater utility in a separate stormwater utility operating account within the public utility stormwater 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 stormwater 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 stormwater utility bonds when due.

(b) Until the Stormwater portion of 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 stormwater debt service fund) in the public utility stormwater fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the stormwater portion of the bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the stormwater utility. The treasurer shall credit to the stormwater debt service fund the amount of accrued interest on the stormwater portion of the bonds. The treasurer shall transfer from the stormwater utility operating account to the stormwater debt service fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the stormwater portion of the bonds, and a pro rata portion of all charges due to the bond registrar. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the city council.

(c) Surplus utility revenues from time to time received in the stormwater utility operating account, in excess of payments due from and reserves required to be maintained in the stormwater utility operating account and in the stormwater debt service fund, may be used for necessary capital expenditures for the improvement of the municipal stormwater utility, for the prepayment and redemption of bonds constituting a lien on the municipal stormwater utility, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

3.06 If the balances in the sewer debt service fund, the gas debt service fund, the water debt service fund or the stormwater debt service fund are ever insufficient to pay all principal and interest then due on such utility's respective portion of 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 applicable debt service fund when the balance therein is sufficient. It is estimated that the net revenues herein pledged and appropriated to said debt service funds will be received at the times and in amounts not less than 5 percent in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the city's liability on the bonds is not limited to the revenues so pledged, and the city council covenants and agrees that it will levy upon all taxable property within the city, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the bonds, without limitation as to rate or amount.

Section 4. Tax covenants; miscellaneous.

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

4.02 (a) No portion of the proceeds of the bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the bonds or \$100,000. To this effect, any proceeds of the bonds and any sums from time to time held in the debt service fund (or any other city account which will be used to pay principal and interest to become due on the bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

(b) In addition, the proceeds of the bonds and money in the debt service funds shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the bonds to be federally guaranteed within the meaning of Section 149(b) of the internal revenue code of 1986, as amended (the code).

(c) The city hereby covenants not to use the proceeds of the bonds, or to cause or permit them to be used, in such a manner as to cause the bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the code.

4.03 (a) Pursuant to Section 1.148-7(d) of the treasury regulations, relating to exception from rebate, the city hereby covenants that with respect to the gross proceeds of the bonds, the following schedule will be met: (i) at least 15 percent 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 percent of such proceeds will be allocated for such purposes within the one year period of such date; and (iii) 100 percent of such proceeds will be allocated for such purposes within the 18 month period beginning on such date; subject to an exception for reasonable retainage of 5 percent available proceeds of the bonds, and that 100 percent 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. 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 02-0562 was unanimously adopted.

Approved August 22, 2002

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

The meeting was adjourned at 5:45 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 26, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0826-13 Boben Enterprises, LLC, et al. (three signatures), submitting petition to vacate a 12 inch airway to the east into the alley of Lot 1, Block 7, Norton Steel Division (1602 Commonwealth Avenue). -- Assessor

02-0826-01 Haines Properties, LLP, et al. (six signatures), submitting petition to reclassify from S suburban to IT industrial technology the SW 1/4 of the SW 1/4 of Section 7, T50, R14, except that part presently zoned as C5. -- Assessor

02-0826-02 Boben Enterprises, LLC, submitting request to withdraw concurrent use permit application regarding eaves at 1602 Commonwealth Avenue. -- Received

02-0826-16 Mary Jane Haglund submitting communication disputing stormwater utility assessments (02-0564R). -- Received

02-0826-14 Lynn Williams, by Peter J. Nickitas, attorney, submitting communication regarding appeal of the building appeal board decision to condemn for habitation property located at 1107 87th Avenue West (02-0388R and 02-0389R). -- Received

02-0826-03 The following submitting communications regarding hours of operation of the fog horn (vetoed 02-0518R, 02-0584R, 02-0585R): (a) Ruth Anderson; (b) Jon Bakke; (c) John DeRosier; (d) Eric Dings; (e) Marilyn Dixon; (f) Duluth Seaway Port Authority; (g) Thomas Holden; (h) Cathy Japs; (i) Lucy Kragness; (j) Sue Parrott; (k) Linda H. Schwartz; (l) Peter Schwartz; (m) Philip Sneve; (n) Ken Steil; (o) Jim, Erin and Joseph Tomsche; (p) Wayne Torke; (q) Dennis Vath. -- Received

- - -

REPORTS OF OFFICERS

02-0826-04 Mayor Doty submitting veto of Resolution 02-0518 regarding the current hours of operation of the diaphone fog horn. -- Received

02-0826-05 Assessor submitting:

(a) Affidavit of mailing of notice of levying of assessments for delinquent stormwater utility bills;

(b) Letters of sufficiency of petitions to:

(1) Construct 125 lineal feet of watermain along 96th Avenue West northerly to Peary Street;

(2) Reclassify from S suburban to IT industrial technology the SW 1/4 of the SW 1/4 of Section 7, T50, R14, except that part presently zoned as C5;

(3) Reclassify the Ramsey Village area from R-2, R-3 and R-4 to TND;

(4) Vacate the the alley located in Block 1, Clague and Prindles Addition

Duluth;

(5) Vacate the alleyway dividing Blocks 15 and 20 and the street between Block 20 and Block 23 Lloyds Division of West Duluth;

(6) Vacate the stormwater easement over Outlot A, Richards' First Addition and northerly ten feet of Outlot A in Arrowhead Second Addition except the easterly 22 feet of the north 12 feet six inches of Outlot A in Arrowhead Second Addition. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

02-0826-06 Clerk submitting applications to Minnesota gambling control board for exemption from lawful gambling licenses from the following: (a) Animal Allies Humane Society, Inc., on November 2, 2002 (raffle); (b) Rotary Club of Duluth on February 27, 2003 (raffle); (c) St. Mary's Medical Center on November 7, 2002 (raffle); (d) St. Michael's Church on November 3, 2002 (bingo and raffle). -- Received

02-0826-07 Engineering division submitting monthly project status report of August 1, 2002. -- Received

02-0826-08 Treasurer submitting annual report of all gifts received by the city for \$5,000 or less during the period of August 1, 2001, through July 31, 2002, pursuant to Resolution 97-0954. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-0826-09 Building appeal board minutes of: (a) April 10; (b) August 14, 2002, meetings. -- Received

02-0826-10 Duluth housing commission minutes of May 9, 2002, meeting. -- Received

02-0826-11 Heritage preservation commission minutes of: (a) May 28; (b) June 25, 2002, meetings. -- Received

02-0826-12 Housing and redevelopment authority of Duluth minutes of: (a) June 18; (b) June 25, 2002, meetings. -- Received

02-0826-15 Special assessment board minutes of: (a) January 8; (b) February 12; (c) February 28; (d) March 5; (e) April 9; (f) May 14; (g) June 11; (h) July 9, 2002, meetings. -- Received

- - -

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Steve Knauss and Burnie Bischoff expressed the concerns of some Hunter's Park residents about traffic control and presented a written request (Public Document No. 02-0826-16) to install stop signs at the Lewis Street and Columbus Avenue intersection.

- - -

Kay L. Lewis expressed her concerns over the importance of traffic safety for citizens over aspects of traffic flow.

- - -

RESOLUTION RECONSIDERED

Councilor Hogg moved to reconsider Resolution 02-0549, authorizing DEDA to enter into a contingent purchase agreement for Lots 5 - 9, Block 7, Portland Division, pursuant to DEDA Resolution 02D-46, which motion was seconded and discussed.

Councilor Hogg reviewed a request by Michael Conlan, director of planning and business development, to reconsider this resolution.

Councilor Gilbert expressed concern over the need for the city to get involved in a private development.

The motion to reconsider carried upon the following vote:

Yeas: Councilors Atkins, Bergson, Hogg, Stauber, Stenberg and Stewart -- 6

Nays: Councilors Gilbert, Stover and President Ness -- 3

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

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 02-0826-17, which is levied to collect delinquent stormwater utility fees payable during the period of January 1, 2001, to December 31, 2001, as provided for in Article XI of Chapter 43 of the Duluth City Code, is hereby confirmed.

Resolution 02-0564 was unanimously adopted.

Approved August 26, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the renewal and issuance of 70 on sale intoxicating liquor, 72 on sale Sunday intoxicating liquor, 19 on sale dancing and seven additional bar licenses for the period beginning September 2, 2002, and ending August 31, 2003, 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. 02-0826-18.

Resolution 02-0565 was unanimously adopted.

Approved August 26, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of 19 on sale wine licenses for the period beginning September 1, 2002, and ending August 31, 2003, 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. 02-0826-19.

Resolution 02-0566 was unanimously adopted.

Approved August 26, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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, 2002, and ending August 31, 2003, 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. 02-0826-20.

Resolution 02-0567 was unanimously adopted.

Approved August 26, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

eight on sale club liquor licenses for the period beginning September 1, 2002, and ending August 31, 2003, 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. 02-0826-21.

Resolution 02-0568 was unanimously adopted.

Approved August 26, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, the alcohol, gambling and tobacco commission of the city of Duluth has held a public hearing on August 13, 2002, to determine whether or not there is good cause to grant Scanlon River Inn, Inc. (Pioneer Bar), 323 West First Street, an on sale intoxicating liquor license, notwithstanding delinquent real estate taxes; and

WHEREAS, the alcohol, gambling and tobacco commission found that good cause is to issue such license does exist.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 8-65 of the Duluth City Code, an on sale intoxicating liquor license and on sale Sunday license shall be granted to the Scanlon River Inn, Inc. (Pioneer Bar), 323 West First Street, provided that all delinquent real estate taxes be paid in accordance with the agreement between building owner and Scanlon River Inn, Inc.

Resolution 02-0569 was unanimously adopted.

Approved August 26 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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:

Commemorative Air Force, 4931 Airport Road, for August 31 and September 1, 2002, with Dwayne Tomasek, manager.

Resolution 02-0572 was unanimously adopted.

Approved August 26, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Heritage Window and Door Company be and hereby is awarded a contract for Fire Station No. 1 windows replacement for the architect division in accordance with specifications on its low specification bid of \$72,352.05, terms net 30, FOB job site, payable out of Capital Improvements Fund 0450, Dept./Agency 015, Organization 2002, Object C207.

Resolution 02-0575 was unanimously adopted.

Approved August 26, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Larson Chevrolet-Olds be and hereby is awarded a contract for General Motors O.E.M. Chevrolet parts and service for Year 2002 for the fleet services division in accordance with specifications on its low specification bid of \$15,000, terms net 30, FOB destination, \$12,500 payable out of Fleet Fund 0660, Dept./Agency 015, Organization 1560,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Object 5221 and \$2,500 payable out of Fleet Fund 0660, Dept./Agency 015, Organization 1560, Object 5404.

Resolution 02-0577 was unanimously adopted.
Approved August 26, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Duluth Lawn and Sport, Inc., be and hereby is awarded a contract for furnishing and delivering one John Deere tractor Model 4520 for the fleet services division in accordance with specifications on its low specification bid of \$54,246.84, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization RS02, Object V214.

Resolution 02-0581 was unanimously adopted.
Approved August 26, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Norwall Power Systems be and hereby is awarded a contract for furnishing and delivering five electrical generators for the fire department in accordance with specifications on its low specification bid of \$25,719.75, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization RS02, Object V202.

Resolution 02-0583 was unanimously adopted.
Approved August 26, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of stock of the following on sale intoxicating liquor license, on sale Sunday license and dancing license for the period ending August 31, 2002, subject to department approvals:

D&D Enterprises of Cloquet, Inc. (Mr. D's Spirit Valley Bar and Grill), with Alan Terwey, 40 percent stockholder, and adding Janet Terwey 60 percent stockholder.

Resolution 02-0594 was unanimously adopted.
Approved August 26, 2002
GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that the city of Duluth hereby accepts from the Minnesota department of transportation the turnback of the right-of-way of part of Trunk Highway 103 renumbered 61 by quit claim deed; said right-of-way more accurately described in the copy of the quit claim deed (Public Document No. 02-0826-22(a) (Exhibit A)) and depicted on the plat (Public Document No. 02-0826-22(b) (Exhibit B)).

Resolution 02-0552 was unanimously adopted.
Approved August 26, 2002
GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

RESOLVED, that the city of Duluth is hereby authorized to enter into a grant agreement (Public Document No. 02-0826-23) for the state fiscal year 2003 with the Minnesota department of public safety, center for crime victim services, 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 0100, Agency 010, Organization 1104.

Resolution 02-0556 was unanimously adopted.

Approved August 26, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that the proper city officers are hereby authorized and directed to execute a lease with the state of Minnesota for the lease of approximately 31,856 square feet of space at the Minnesota department of transportation headquarters complex at 1123 Mesaba Avenue for a 25 year period, for an estimated initial consideration of \$249,559.20 per year to be paid from General Fund 0100-500-2000-5412, but subject to the scheduled rent reduction after 15 years; said lease to be substantially in the form of the lease filed as Public Document No. 02-0826-24.

Resolution 02-0580 was unanimously adopted.

Approved August 26, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct 110 feet of sanitary sewer in North Central Avenue Alley beginning at the intersection of Albion Street and extending northerly.

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

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

Resolution 02-0517 was unanimously adopted.

Approved August 26, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, by Resolution of Intent numbered 02-0515 the council did request the administration to prepare plans and specifications for the construction of 125 feet of watermain along 96th Avenue West beginning at mid-block and extending northerly to Peary Street (City Job No.0269WA) at an estimated cost of \$12,000; and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; proper notice has been sent to the benefitting property owners; the special assessment board has 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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 \$12,000, payable from Special Assessment Fund 0410, Agency 038, Organization 5357, Object 5530, and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15-year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 02-0563 was unanimously adopted.

Approved August 26, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, by the Resolution of Intent numbered 02-0538, the council did request the administration to prepare plans and specifications for the construction of a permanent street in 85th Avenue West from dead end 100 feet northerly, approximately 100 feet in length, including permanent residential design street with concrete curb and gutter, bituminous surface, storm sewer, sanitary sewer, watermain and gas main, all to serve Lot 1, Block 2 and Lots 1 and 2, Block 1 in Wahlstrom Division Second Addition (City Job No. 0254TR); and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; proper notice has been sent to the benefitting property owners; the 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 \$39,000, payable from the Special Assessment Fund 0410, Agency 038, Organization 5358, Object 5530, that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 02-0573 was unanimously adopted.

Approved August 26, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Equipment Rental Company be and hereby is awarded a contract for furnishing and delivering miscellaneous interior shelving for the utility operation division in accordance with specifications on its low specification bid of \$15,166.19, terms net 30, FOB destination, \$4,549.86 payable out of Water Fund 0510, Dept./Agency 500, Organization 1905, Object 5580 and \$10,616.33 payable out of Gas Fund 0520, Dept./Agency 500, Organization 1905, Object 5580.

Resolution 02-0574 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Approved August 26, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Forrer Supply Company be and hereby is awarded a contract for furnishing and delivering 55,000 feet of polyethelene pipe for the utility operation division in accordance with specifications on its low specification bid of \$16,411.65, terms net 30, FOB destination, payable out of Gas Fund 0520, Dept./Agency 500, Organization 1945, Object 5227.

Resolution 02-0576 was unanimously adopted.

Approved August 26, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the Highland pressure zone study; and
WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to evaluate the water supply and distribution requirements for the Highland pressure zone; and

WHEREAS, M.S.A. Professional Service 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 M.S.A. Professional Service to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$12,500, will be payable from the Water Fund 0510, Dept./Agency 500, Organization 1930, Object 5303.

Resolution 02-0578 was unanimously adopted.

Approved August 26, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Novaspect, Inc., be and hereby is awarded a contract for furnishing a gas distribution monitor and control system for the utility operation division in accordance with specifications on its low specification bid of \$52,559, terms net 30, FOB Marshalltown, Iowa, payable out of Gas Construction Bond Fund 0521, Dept./Agency 500, Object 5532.

Resolution 02-0579 was unanimously adopted.

Approved August 26, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Max Gray Construction, Inc., be and hereby is awarded a contract for the construction of a new public works and utilities Garfield building for the city architect division in accordance with specifications on its low specification bid of \$6,387,000, terms net 30, FOB job site, payable out of Public Utility Bond Construction Fund 0522, Dept./Agency 500, Object 5532.

Resolution 02-0582 was unanimously adopted.

Approved August 26, 2002
GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are authorized to accept a grant of up to \$52,085 from the U.S. department of justice under its local law enforcement block grant program for the period of October 1, 2002, through December 31, 2004;

RESOLVED FURTHER, that grant monies received pursuant to this grant shall be deposited in Police Grant Program Fund 0215, Agency 200, Org. 2464.

Resolution 02-0558 was unanimously adopted.

Approved August 26, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED that the proper city officers are authorized and directed to execute an agreement between the city of Duluth and Independent School District No. 709 (Public Document No. 02-0826-25) authorizing the continuation of the police-school resource program; with the school district contributing \$151,000 per year and the city contributing six police officers per year during the school year. Funds are to be deposited in Fund 0215-200-2437.

Resolution 02-0570 was unanimously adopted.

Approved August 26, 2002

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 02-0585, by Councilor Hogg, setting conditions for any diaphone fog horn contract, and Resolution 02-0584, by President Ness and Councilor Stover, in support of changing the hours of operation of the diaphone fog horn, were introduced for discussion.

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

Kay L. Lewis expressed support for keeping the fog horn in use only for navigational uses.

Ken Steil, representing Save Our Serenity (SOS), expressed appreciation for the opportunity for his group to give input and that the resolutions before the council reflects the group's concerns. He stated that his group has never been in favor of ending the use of the foghorn or permitting vessels on the lake to go without a signal.

Jeff Pierson presented information on how the various aspects of topography in Duluth affects the magnitude of the sound levels that are heard. He expressed concern that if the sound levels cannot be reduced, they will continue to exist at the present level.

Councilors Stauber and Hogg expressed concern that the port authority supports the current hours and that the coast guard would have to approve any changes in hours.

Resolution 02-0585 was adopted as follows:

BY COUNCILOR HOGG:

BE IT RESOLVED, that before the city enters into any contract for maintenance or operation of the diaphone fog horn at the Duluth ship canal, except a permit agreement with the U.S. Coast Guard for operation of a private navigation aid, the city officials shall investigate, and consult with one or more experts, and determine how the volume of the fog horn may be reduced and how the sound from the fog horn may be directed away from city residences, and any such contract shall allow and require that reasonable and financially feasible measures to reduce the volume and redirect the sound shall be implemented.

Resolution 02-0585 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stenberg, Stewart, Stover and President Ness -- 8

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Nays: Councilors Stauber -- 1
Approved August 26, 2002
GARY L. DOTY, Mayor

- - -

Resolution 02-0584 was adopted as follows:

BY PRESIDENT NESS AND COUNCILOR STOVER:

BE IT RESOLVED, that the Duluth city council supports and encourages a change in the hours of operation of the diaphone fog horn, a private navigation device, that is located at the Duluth ship canal so that the hours of such operation shall become the period between 9:00 a.m. and 9:00 p.m., April through October.

BE IT FURTHER RESOLVED, that the proper city officials are authorized and requested to do all acts necessary, including implementing changes in the existing permit agreement with the U.S. Coast Guard, to effectuate the change in hours of operation.

Resolution 02-0584 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Stenberg, Stewart, Stover and President Ness -- 7

Nays: Councilors Hogg and Stauber -- 2
Approved August 26, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

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. 02-0826-26, with OCI(N), Inc., for the acquisition of the therein-described property at 132 West First Street for the Clayton-Jackson-McGhie memorial project at no out-of-pocket cost to the city.

Resolution 02-0557 was unanimously adopted.

Approved August 26, 2002
GARY L. DOTY, Mayor

- - -

Resolutions 02-0588 and 02-0589, by Councilor Stenberg, affirming and reversing, respectively, the condemnation for habitation of 1107 87th Avenue West, were introduced for discussion.

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

Peter Nickitas, attorney representing the applicant, reviewed the history on this issue and spoke in support of Resolution 02-0589.

Lynn Williams, applicant, spoke in support of Resolution 02-0589, noting the difficulty for a duplex or apartment owner to work with the building safety division in complying with rules and regulations in a reasonable, respectful and common sense manner.

Resolution 02-0588 failed upon a unanimous vote (Public Document No. 02-0826-27).

- - -

Resolution 02-0589 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, on May 24, 2002, the structure located at 1107 - 87th Avenue West and owned by Lynn Williams was condemned for habitation by order of the building official; and

WHEREAS, Lynn Williams filed a timely appeal to the building appeal board pursuant to Duluth City Code Section 29A-5 which affirmed the order; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

WHEREAS, Lynn Williams pursued her appeal to the city council pursuant to Duluth City Code Section 10-5(c)(2), and on August 19, 2002, the physical development committee of the city council heard evidence.

NOW, THEREFORE, BE IT RESOLVED, that the order condemning the structure located at 1107 - 87th Avenue West is reversed.

Resolution 02-0589 was unanimously adopted.

Approved August 26, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

BE IT RESOLVED that the proper city officials are authorized to do the acts necessary to settle the claims of Janet A. Lishinski and Gary H. Lishinski, individually and as trustee for the next-of-kin of Jessica A. Lishinski, who died in Lief Erickson park on May 18, 1999, under the following terms and conditions:

(a) An appropriate release and settlement document will be executed and implemented by the parties;

(b) Required district court approval will be secured;

(c) City will pay to the claimants and their attorney, H. Jeffrey Peterson, the amount of \$50,000 on or before the 30th day following district court approval of this settlement;

(d) City will pay to claimants and their attorney the amount of \$137,500 on or before February 1, 2003;

(e) Within 30 days of the district court's approval of this settlement, the city shall begin a search for a qualified independent safety consultant who is knowledgeable about trail and path design for walking, bicycling and in-line skating. Such a consultant shall be retained to make recommendation to improve the safety of the pathways in Leif Erickson park, including the area where Jessica Lishinski died. Claimants shall have the opportunity for meaningful input and participation in the safety review and implementation process. The city shall spend up to \$10,000 to implement the safety expert's recommendations for improvements to the park. The city will make its best efforts to complete the improvements by Memorial Day 2003, subject to factors beyond its control or not anticipated by the parties. Should the city fail in its obligation to complete the safety improvement project, then the city shall pay to the claimants the sum of \$20,000, an amount of settlement payment which the claimants have foregone in exchange for the city's promise to improve safety in the park;

(f) Any disputes about the implementation of the settlement shall be determined by the district court;

(g) Payment will be made from Self Insurance Fund 0610.

Resolution 02-0571 was adopted upon the following vote:

Yeas: Councilors Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Nays: Councilor Atkins -- 1

Approved August 26, 2002

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR STENBERG

02-028 (9552) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE

1959, AS AMENDED, ZONING DISTRICT MAP NOS 45, 47, 48 AND 49, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-A AND R-1-B SINGLE FAMILY RESIDENTIAL AND S SUBURBAN TO S-2 SUBURBAN RESIDENTIAL, PROPERTIES LOCATED BETWEEN THE LESTER RIVER AND THE NORTHERN CITY LIMITS, BETWEEN THE CENTERLINE OF TRUNK HIGHWAY 61 AND LAKE SUPERIOR (DULUTH/NORTH SHORE SANITARY DISTRICT).

Councilor Stenberg moved to remove the ordinance from the table, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bergson, Stauber, Stenberg, Stewart and Stover -- 6

Nays: Councilors Gilbert, Hogg and President Ness -- 3

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

Al Katz and Nelson Thomas stated that many meetings and hearings on were held on this matter and that they supported the ordinance because it maintains a moderate North Shore housing population density; it brings an end to the building moratorium and implements the Duluth/North Shore Sanitary District land use plan.

Bill Wilson opposed the ordinance noting that he is acquiring the property in this area for a development and made a request for a two week delay so that his attorney can advise him of his options.

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

Yeas: Councilors Atkins, Gilbert and President Ness -- 3

Nays: Councilors Bergson, Hogg, Stauber, Stenberg, Stewart and Stover -- 6

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

- - -

The following entitled ordinance was read for the first time:

BY PRESIDENT NESS

02-038 - AN ORDINANCE AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AN AGREEMENT AND MORTGAGE IN FAVOR OF THE UNITED STATES DEPARTMENT OF COMMERCE, ECONOMIC DEVELOPMENT ADMINISTRATION.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STEWART

02-037 - AN ORDINANCE AMENDING THE REGULATIONS FOR THE DEMOLITION OF HAZARDOUS BUILDINGS; AMENDING SECTIONS 10-3 AND 10-5 AND REPEALING IN ITS ENTIRETY SECTION 10-7 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY COUNCILOR STENBERG

02-036 - AN ORDINANCE CREATING DULUTH NATURAL AREAS PROGRAM AND ESTABLISHING PROCEDURES WITH REGARD THERETO, AMENDING CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW ARTICLE XXIX THERETO.

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

- - -

The meeting was adjourned at 8:55 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9552

BY COUNCILOR STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 45, 47, 48 AND 49, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-A AND R-1-B SINGLE FAMILY RESIDENTIAL AND S SUBURBAN TO S-2 SUBURBAN RESIDENTIAL, PROPERTIES LOCATED BETWEEN THE LESTER RIVER AND THE NORTHERN CITY LIMITS, BETWEEN THE CENTERLINE OF TRUNK HIGHWAY 61 AND LAKE SUPERIOR (DULUTH/NORTH SHORE SANITARY DISTRICT).

The city of Duluth does ordain:

Section 1. Section 1. That Plate Nos. 45, 47, 48 and 49 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(MAPS)

(see pages 438 through 441)

Section 2. That this S-2 zone is subject to the provision that, notwithstanding the terms of S-2 suburban residential district, any lot of record on the effective date of this ordinance located north of Superior Street and west of 79th Avenue East, which is held under separate ownership from adjoining lots and which has an area of 7,000 square feet or more, may nonetheless be used in accordance with terms of the S-2 zone; further, any lot of record on the effective date of this ordinance located in the balance of the zone, which is held under separate ownership from adjoining lots and which has an area of 14,000 square feet or more, may nonetheless be used in accordance with terms of the S-2 zone.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 29, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 26, 2002
Approved August 26, 2002
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 9, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

The minutes of the city council meeting held on July 8, 2002, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0909-01 Gene Raatz, et al. (two signatures), submitting petition to construct 250 lineal feet of low pressure sanitary sewer within Swenson Avenue beginning at the intersection of 92nd Avenue West and extending easterly. -- Assessor

02-0909-02 Carla Blumberg submitting acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance No. 9535 on June 10, 2002. -- Received

02-0909-03 Nancy Dalaska submitting communication regarding the appeal of the condemnation for human habitation of property located at 1107 87th Avenue West (02-0589R); and hours of operation of the foghorn (02-0584R, 02-0585R). -- Received

02-0909-04 Doug Fieldman submitting communication regarding hours of operation of the foghorn (02-0584R, 02-0585R). -- Received

02-0909-05 St. Louis County Heritage and Arts Center submitting applications for facilities rental during which alcoholic beverages will be served from: (a) Meghan Baker on September 21, 2002; (b) Tracy Christenson on September 14, 2002; (c) Amy McCormick and Tim Erickson on September 28, 2002. -- Received

02-0909-12 The following submitting communications regarding construction of a security fence at Sky Harbor Airport on Park Point (02-0624R): (a) Janice Cohen; (b) Jan Karon; (c) Judine Mayerle. -- Received

- - -

REPORTS OF OFFICERS

02-0909-11 Mayor Doty submitting: (a) 2003 budget; (b) 2003 budget address. -- Received

02-0909-06 Assessor submitting affidavits of mailing of notice of public hearings to be held on September 10, 2002, in Room 106A, City Hall, as follows:

(a) 3:45 p.m. - reassessment of cancelled assessments - Parkwood Street and utilities (total assessment - \$23,512.27);

(b) 3:45 p.m. - reassessment of cancelled assessments - water and gas mains - Contract Nos. 1179081, 1179082;

(c) 4:00 p.m. - ordering permanent construction of Third Street Alley from 18th Avenue East to 19th Avenue East (estimated assessable amount - \$28,000);

(d) 4:15 p.m. - ordering permanent construction of 57th Avenue West Alley from Cody Street to 57th Avenue West (estimated assessable amount - \$36,500). -- Clerk

02-0909-13 Building official submitting appeal (Orthopedic Associates of Duluth, P.A.) to reverse the board of zoning appeals' approval of a variance request by A & L Development to relax the minimum rear yard setback from 25 feet to zero feet, and the maximum height allowed from 45 feet to 58 feet, and a reduction of required parking spaces from 365 spaces to 119 on site spaces with the stipulation that the project receive approval of a water management variance for impervious surface and a vacation of air rights for the proposed skywalk, to construct an approxi-

mate 18,250 square foot, four story medical office building with basement level parking and a two level parking garage on property located at approximately 1001 East Superior Street. -- Committee 2 (physical planning)

02-0909-07 Clerk submitting application to Minnesota gambling control board for exemption from lawful gambling licenses from St. John's the Evangelist Catholic Church on November 9, 10 and December 7, 8, 2002 (bingo). -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-0909-08 Duluth airport authority: (a) Balance sheet of June 30, 2002; (b) Minutes of July 16, 2002, meeting. -- Received

02-0909-09 Duluth/North Shore Sanitary District minutes of August 6, 2002, meeting. -- Received

02-0909-10 Duluth transit authority: (a) Minutes of June 5, 2002, meeting; (b) Financial and income statements for: (1) May 2002; (2) June 2002. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Kay L . Lewis commented on the issue of rain gardens and how it would work well in Duluth and the success of Harvest Festival.

- - -

John Hawley invited the council to meet Mr. Mueller Fuller, the founder of Habitat for Humanity, who will be in Duluth tomorrow.

- - -

RESOLUTIONS TABLED

Councilor Stenberg moved to remove Resolution 02-0548, approving program guidelines for the Duluth natural areas program, from the table, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES ORDINANCE TABLED

BY COUNCILOR STENBERG

02-036 (9558) - AN ORDINANCE CREATING DULUTH NATURAL AREAS PROGRAM AND ESTABLISHING PROCEDURES WITH REGARD THERETO, AMENDING CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW ARTICLE XXIX THERETO.

Councilor Stenberg moved to remove from the table and consider the ordinance at this time, which motion was seconded and carried upon a unanimous vote.

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

K. L. Lewis expressed support for the resolution, but with public input.

Councilor Hogg made a motion to amend the second sentence in Section 2-156 of the ordinance to read as follows:

“Protections for designated tracts, including the granting of a conservation easement or inclusion in a state preservation program, shall be in one of the following forms and shall be implemented by ordinance or resolution as required by law, the approval of which ordinance or resolution shall require the affirmative vote of seven councilors,” which motion was seconded and unanimously carried.

Resolution 02-0548 was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that the city council hereby approves the program guidelines for the Duluth

natural areas program, a copy of which are on file in the office of the city clerk as Public Document No. 02-0909-14.

Resolution 02-0548 was unanimously adopted.
Approved September 9, 2002
GARY L. DOTY, Mayor

- - -

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

- - -

Councilor Stenberg moved to remove Resolution 02-0549, authorizing DEDA to enter into a contingent purchase agreement for lots 5 - 9, Block 7, Portland Division, pursuant to DEDA Resolution 02D-46, from the table, which motion was seconded and unanimously carried.

Councilors Gilbert, Hogg, Bergson and Stover expressed concern that the purchase price is higher than the appraisal and questioned the need for DEDA to get involved when there is already an interested developer. They commented further that the Downtown medical district plan has not had public input; that because of this development the storefront improvement plan will need to be amended; projects such as the Bayfront, the Bridgeman-Russell building, the connection of the skywalk system to the technology building needs to be completed first; that the plan for the proposed Downtown medical district does not give adequate information and that the explanation and reasons for rushing into this project are inadequate.

Councilors Stewart and Atkins supported the resolution for the following reasons: this resolution only deals with the acquisition of the building and is an effort toward improving the Downtown; when a new development project is announced, it is normal to see an increase in value of the property involved; the city has been involved in partnerships with developers in the past; the city can leverage funding, by its ownership of the building, for the improvement of the site for everyone involved in the development; this location received great input in the old Downtown plan, which called for improvement for the site and the hospital development is the catalyst for this area and creates an opportunity for the city to somewhat control the development.

Resolution 02-0549 failed upon the following vote (Public Document No. 02-0909-25):
Yeas: Councilors Atkins, Stauber, Stenberg and Stewart -- 4
Nays: Councilors Bergson, Gilbert, Hogg, Stover and President Ness -- 5

- - -

MOTIONS AND RESOLUTIONS
CONSENT AGENDA

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

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

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement two supplemental agreements amending Appendix 5 of the basic unit labor agreement, in substantially the form and containing the terms and conditions set out in that agreement on file

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

with the city clerk as Public Document No. 02-0909-15. (Corrections for matters such as grammar, labels, spelling being allowed.)

Resolution 02-0602 was unanimously adopted.

Approved September 9, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Duncan Industries be and hereby is awarded a contract for furnishing and delivering 101 CK electronic parking meter mechanisms and domes for the maintenance operations division in accordance with specifications on its low specification bid of \$16,839.30, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization NR00, Object E037.

Resolution 02-0613 was unanimously adopted.

Approved September 9, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Monroe Truck Equipment be and hereby is awarded a contract for furnishing and delivering two dump spreaders for the fleet services division in accordance with specifications on its low specification bid of \$96,421.03, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization RS02, Object V207.

Resolution 02-0614 was unanimously adopted.

Approved September 9, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the Duluth City Council hereby approves of the abolishing of the 36 obsolete and inactive job classifications set forth in Public Document No. 02-0909-17 (Exhibit A), said action abolishing said classifications having been approved by the civil service board on July 11, 2002.

Resolution 02-0603 was unanimously adopted.

Approved September 9, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the driver's license requirement in the specifications for the 49 civil service classifications set forth in Exhibit A, which were approved by the civil service board on August 6, 2002, and which are filed with the city clerk as Public Document No. 02-0909-18, are approved.

Resolution 02-0604 was unanimously adopted.

Approved September 9, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

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. 02-0909-19, with Duluth/North Shore Sanitary District in an amount not to exceed \$150,000,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

payable from 2002 Federal Program Fund 262 - community development, Agency 625, Project Account No. 6508.

Resolution 02-0608 was unanimously adopted.
Approved September 9, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Polyphase Electric Company be and hereby is awarded a contract for furnishing and delivering the Fourth Street lighting project - Phase IV for the community development and housing division in accordance with specifications on its low specification bid of \$55,819.20, terms net 30, FOB job site, payable out of Community Development Fund 0262, Dept./Agency 625, Object 6514.

Resolution 02-0612 was unanimously adopted.
Approved September 9, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a revised sublease agreement, in the form and containing substantially the terms set out in Public Document No. 02-0909-20, on file with the city clerk (final adjustments for interest rates, construction adjustments and similar matters being contemplated) between the city of Duluth and Cirrus Design Corporation, for the letting of space in the aviation business incubator facility being constructed at the Duluth airport, for a term ending 2022, the revised lease having minor changes from that one authorized by Resolution 02-0077.

Resolution 02-0607 was unanimously adopted.
Approved September 9, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, Craig Keuten has submitted to the city council a request for the renewal of a special use permit, as provided for in Resolution 98-0627, for a seasonal bait supply service at property described as the south half of Lots 19 and 20, Block 1, Car Line Gardens and located at 114 South Arlington Avenue as authorized by Section 50-35(i) commercial, recreational or amusement development for temporary or seasonal periods; said application for renewal 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 the terms and conditions of Resolution 98-0627 have been complied with and that appropriate safeguards 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 renewal of the special use permit is hereby granted to Craig Keuten to allow for the operation of a seasonal bait supply service at 114 South Arlington Avenue, subject to the following conditions:

- (a) The use of the property not exceed the extent of the operation as it existed on May 1, 1998;
- (b) There be no retail sales conducted or permitted on the property;
- (c) This permit will not be used or transferred to subsequent owners of the property

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

without an amendment to this permit;

(d) This permit shall be valid for a period of four years from the effective date of this resolution, at which time the permittee may apply for another four-year period.

Resolution 02-0609 was unanimously adopted.

Approved September 9, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to accept \$150,882 in Minnesota youth program funds from the Minnesota department of economic security in accordance with City Contract No. 18880, Resolution No. 01-0250, passed April 9, 2001. Said monies will be used to provide workforce development services to at-risk youth as defined in the program year 2002 - 2003 local plan for youth services from July 1, 2002, through June 30, 2003. Funds received will be deposited in Fund No. 0268, Budget Item 6256.

Resolution 02-0587 was unanimously adopted.

Approved September 9, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to accept \$104,665 in Title V - Older American's Act funds from the Minnesota department of economic security in accordance with City Contract No. 19118, Resolution No. 02-0400, passed June 24, 2002. Said monies will be used to provide workforce development services to seniors under the Older American's Act, as defined in the program year 2002 - 2003 local plan for adult services, from July 1, 2002, through June 30, 2003. Funds received will be deposited in Fund No. 271, Budget Item 6335.

Resolution 02-0590 was unanimously adopted.

Approved September 9, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS :

RESOLVED, that the director of planning and development and the city clerk are hereby authorized to enter into a grant agreement in the form of that on file in the office of the city clerk as Public Document No. 02-0909-21 with the Minnesota Historical Society, accepting a grant in the amount of \$1,391, said funds to be deposited into Fund 0100, 020, 1202.

Resolution 02-0605 was unanimously adopted.

Approved September 9, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to accept \$11,869 in Workforce Investment Act technical assistance and training funds from the Minnesota department of economic security in accordance with City Contract No. 18880, Resolution No. 01-0725 passed administering and delivery Workforce Investment Act services as defined in the program year

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

October 10, 2001. Said monies to be used to provide technical assistance and training in 2001-2002 local plan, from June 30, 2002, through December 31, 2003. Funds received will be deposited in Fund No. 0268, Budget Item 6258.

Resolution 02-0611 was unanimously adopted.

Approved September 9, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement, filed as Public Document No. 02-0909-22, between the city of Duluth and the Duluth Seaway Port authority for the construction of street improvements to be known as the Arthur Avenue project; with the maximum consideration to be paid by the city under this agreement to be \$68,000, payable from the Permanent Improvement Fund 411, to be reimbursed from the MSA fund.

Resolution 02-0511 was unanimously adopted.

Approved September 9, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct 250 feet of sanitary sewer in Swenson Avenue beginning at the intersection of 92nd Avenue West and extending easterly.

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

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

Resolution 02-0595 was unanimously adopted.

Approved September 9, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute and implement a temporary license agreement, a copy of which is on file in the office of the city clerk as Public Document No. 02-0909-23, from the Duluth Seaway Port authority for the use of approximately 12,000 square feet of Garfield C and D Dock, as depicted on said document, for storage of equipment and materials.

Resolution 02-0610 was unanimously adopted.

Approved September 9, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Morton Salt Division c/o Hallett Dock Company be and hereby is awarded a contract for furnishing road salt for year 2002/2003 winter season for the maintenance operations division in accordance with specifications on its low specification bid of \$292,000, terms net, FOB destination, payable out of General Fund 0100, Dept./Agency 500, Organization 2000,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Object 5233.

Resolution 02-0615 was unanimously adopted.
Approved September 9, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0463 to T.M.I. Coatings, Inc., for the rehabilitation of Woodland reservoir walls with shotcrete, be amended to increase the amount by \$56,567 for a new total of \$225,367, payable out of Water Construction Bond Fund 0511, Dept./Agency 500, Object 5532.

Resolution 02-0616 was unanimously adopted.
Approved September 9, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Dey Appliance Company be and hereby is awarded a contract for furnishing and delivering gas appliance/furnace repair parts for the utility operations division in accordance with specifications on its low specification bid of \$27,249.91, terms net 30, FOB destination, payable out of Gas Fund 0520, Dept./Agency 500, Organization 2420, Object 5219.

Resolution 02-0617 was unanimously adopted.
Approved September 9, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

WHEREAS, the Duluth Softball Players Association desires to improve the Wheeler and Wade softball complexes by the addition of a new lighted regulation softball field; and

WHEREAS, the Duluth Softball Players Association has graciously offered to pay the purchase and installation price of \$145,000 for said field.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby accepts the above-mentioned gift and extends its deepest thanks and gratitude to the Duluth Softball Players Association for its efforts to improve community facilities.

Resolution 02-0586 was unanimously adopted.
Approved September 9, 2002
GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

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, 2003.

GENERAL

010	Total legislative and executive	\$ 1,957,800
015	Total administrative service	\$ 7,635,000
020	Total planning and development	\$ 935,700

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

030	Total finance	\$ 2,727,000
100	Total fire	\$14,874,900
200	Total police	\$13,946,100
300	Total library	\$ 4,100,700
400	Total parks and recreation	\$ 2,706,700
500	Total public works	\$10,232,000
700	Total transfers	\$13,213,800
100	General fund total	\$72,330,000

PUBLIC ENTERPRISE

503	Golf fund - total	\$ 1,950,900
510	Water fund - total	\$12,577,400
520	Gas fund - total	\$42,141,100
530	Sewer fund -total	\$18,424,700
535	Stormwater fund - total	\$ 3,523,900
540	Steam fund	\$ 3,653,100

Resolution 02-0596 was unanimously adopted.
Approved September 9, 2002
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 2003 for general operations is hereby determined to be the sum of \$9,679,200 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 \$4,726,600.

Section 3. For the payment of debt, there will be levied for the general obligation debt fund the sum of \$4,362,600.

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 \$590,000.

Resolution 02-0597 was unanimously adopted.

Approved September 9, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that pursuant to Minnesota Statutes, Sec. 275.065, the city council adopts the following proposed tax levy.

Section 1. The sum to be raised by taxation for the year 2003 for Duluth transit authority special taxing district's operations is hereby determined to be the sum of \$529,400 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following section, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458A.31, Subd.1, there will be levied for transit operations the sum of \$529,400.

Resolution 02-0598 was unanimously adopted.

Approved September 9, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that pursuant to Minnesota Statutes, Sec. 469.053, the city council adopts the following proposed property tax levy.

Section 1. The sum to be raised by taxation for the year 2003 for Seaway Port authority taxing district's operations is hereby determined to be the sum of \$569,600 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458.15, there will be levied for the purpose of providing for the Seaway Port authority special taxing district the sum of \$569,600.

Resolution 02-0599 was unanimously adopted.

Approved September 9, 2002

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 2003 and final city property tax levy for taxes payable in 2003: December 2, 2002, at 7:00 p.m. in the Duluth City Council Chambers.

Resolution 02-0600 was unanimously adopted.

Approved September 9, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0601, by Councilor Stewart, confirming reappointments of Gregg Lillejord and Louise S. Yount to the tree commission, was introduced for discussion.

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

Yeas: Councilors Atkins, Bergson, Gilbert, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Nays: Councilor Hogg -- 1

Relative to Resolution 02-0601(a), Councilor Stewart stated that attendance at more than half of the meetings is needed when one volunteers to serve on a board or commission.

Councilor Stenberg suggested that the council meet with the recommended appointee before acting on the appointment.

Resolution 02-0601(a), reappointing Gregg Lillejord, was adopted as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BY COUNCILOR STEWART:

RESOLVED, that the reappointment of Gregg Lillejord to the tree commission (professional) for a term expiring August 31, 2004, by Mayor Doty is confirmed.

Resolution 02-0601(a) was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Hogg, Stauber, Stenberg and President Ness -- 6

Nays: Councilors Gilbert, Stewart and Stover -- 3

Approved September 9, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0601(b), reappointing Louise S. Yount, was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that the reappointment of Louise S. Yount to the tree commission for a term expiring August 31, 2005, by Mayor Doty is confirmed.

Resolution 02-0601(b) was unanimously adopted.

Approved September 9, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0591, by Councilor Stenberg, authorizing an amendment to agreement with the Duluth 1200 Fund, Inc., was introduced for discussion.

Councilors Hogg, Atkins, Bergson and President Ness raised questions and concerns relative to the resolution.

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

- - -

Resolution 02-0606, by Councilor Stenberg, amending Resolution 89-0323, as amended by Resolution 98-0949, establishing the Duluth economic development authority to eliminate the requirement that a majority of the commissioners present at a meeting must be city councilors for action to be taken, was introduced for discussion.

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

Kay L. Lewis expressed concern regarding a change such as this when large sums of money is involved.

Councilor Stenberg moved to table the resolution until a committee meeting is held on the issue, which motion was seconded and unanimously carried.

- - -

BY PRESIDENT NESS:

WHEREAS, the city of Duluth has set a due date of August 19, 2002, for community development block grant applications; and

WHEREAS, the Salvation Army intended to submit two block grant applications, one relating to home buyers money management and one related to transitional housing for the homeless; and

WHEREAS, because of staff turnover at the Salvation Army, information concerning the transitional housing grant was not properly transmitted so that the transitional housing grant was not applied for by August 19, 2002; and

WHEREAS, the Salvation Army has in a timely manner applied for and has received transitional housing grants in the past and was timely in their other grant application this year; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

WHEREAS, loss of the transitional housing grant by the Salvation Army would have serious consequences for the Salvation Army including the loss of three apartments that are now being used as transitional housing for homeless families, the loss of HUD funding that the block grant serves as a local match for, and the possible loss of one staff person; and

WHEREAS, the Salvation Army has a long history of successful public service in the city of Duluth and the missed deadline for the transitional housing grant application was an inadvertent mistake caused by staff turnover.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby directs that the Salvation Army's community development block grant application for a transitional housing program be accepted by the community development committee of the council.

RESOLVED FURTHER, that the Duluth City Council acknowledges that the position of the Salvation Army, in this case, is unique and that the passage of this resolution should not be looked at as any relaxation of the firm deadlines set for community development block grant applications in the future.

Resolution 02-0619 was unanimously adopted.

Approved September 9, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

WHEREAS, available technologies could greatly improve the efficiency of the building inspection process and the department's public service.

NOW, THEREFORE, BE IT RESOLVED, that the council requests that the administration study the possibility of implementing a centralized and citywide licensing and permitting software system for the city of Duluth.

FURTHER RESOLVED, that the administration explore other data collection and entry technologies for the building inspection office.

Resolution 02-0620 was unanimously adopted.

Approved September 9, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0624, by President Ness and Councilor Stewart, requesting that the security fence at Sky Harbor airport be constructed outside the old growth pine forest, was introduced for discussion.

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

Kay L. Lewis; Bob Japstrom, Minnesota department of natural resources (DNR); Kinnan Stauber, Park Point Community Club; Cathy Podeszwa, Duluth Audubon Society; expressed support for the resolution for the following reasons of: the protection of the trees; concerns raised by the DNR, Park Point Community Club and the Duluth airport authority; all concerned parties and organizations have met and the proposed fence location is supported by all except federal aviation administration (FAA) and the FAA has altered regulations in the past in order to protect environmental concerns.

Resolution 02-0624 was adopted as follows:

BY PRESIDENT NESS AND COUNCILOR STEWART:

BE IT RESOLVED, that the Duluth City Council requests that the security fence proposed to be constructed at the Sky Harbor airport be located outside of the old growth pine forest on the location proposed by the Minnesota department of natural resources (DNR) and which was supported by the Park Point Community Club and accepted by the Duluth airport authority (DAA)

in the letter of July 10, 2002, from Ray Klosowski, executive director of the DAA, to the federal aviation authority (FAA).

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to send copies of this resolution to the Honorable James Oberstar; the Duluth legislative delegation; Gordon Nelson of the FAA airports district office; DNR commissioner, Alan Garber; the DAA; and the Park Point Community Club president, Karl Olson.

Resolution 02-0624 was unanimously adopted.
Approved September 9, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are authorized and directed to enter into an agreement with the state of Minnesota, department of public safety, filed as Public Document No. 02-0909-24, for the operation by the city fire department of a hazardous materials emergency response team for a consideration from the state of not to exceed \$142,545.45, to be deposited in General Fund 100, Agency 100, Ord. 1505.

Resolution 02-0592 was unanimously adopted.
Approved September 9, 2002
GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR STENBERG

02-041 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 33 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM "S" SUBURBAN TO "R-3" APARTMENT RESIDENTIAL, APPROXIMATELY 30 ACRES OF LAND LOCATED ALONG THE NORTH SIDE OF RICE LAKE ROAD, ONE QUARTER MILE NORTH OF ARROWHEAD ROAD, JUST NORTH OF THE UNIPRISE PROPERTY (G. HOVLAND).

- - -

BY PRESIDENT NESS

02-040 - AN ORDINANCE PERTAINING TO MERCURY AND MERCURY CONTAINING ITEMS; AMENDING SECTION 28-61, DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR STOVER

02-039 - AN ORDINANCE DEDICATING AN EASEMENT FOR PUBLIC STREET AND HIGHWAY PURPOSES.

- - -

The following entitled ordinance was read for the second time:

BY PRESIDENT NESS

02-038 (9559) - AN ORDINANCE AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AN AGREEMENT AND MORTGAGE IN FAVOR OF THE UNITED STATES DEPARTMENT OF COMMERCE, ECONOMIC DEVELOPMENT ADMINISTRATION.

President Ness moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 8:50 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9558

BY COUNCILOR STENBERG:

AN ORDINANCE CREATING DULUTH NATURAL AREAS PROGRAM AND ESTABLISHING PROCEDURES WITH REGARD THERETO, AMENDING CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW ARTICLE XXIX THERETO.

The city of Duluth does ordain:

Section 1. That Chapter 2 of the Duluth City Code, 1959, as amended, is hereby amended to add a new Article XXIX which reads as follows:

Article XXIX. Duluth Natural Areas Program.

Sec. 2-152. Statement of purpose.

The city council finds that the city of Duluth is the owner of a substantial number of tracts of real estate, both inside and outside the city, some of which are of special or unique ecological or environmental significance to the community, which properties should be considered for conservation designation in order to protect those values. Said council further finds that there may be other tracts of land in private ownership or owned by other governmental entities which should be similarly protected if the cooperation of those owning such tracts can be secured. The purpose of this Article is to create a program to protect and preserve the natural heritage of the Duluth area which will include mechanisms for identifying those properties, whether owned by the city or by others, and for establishing a means to protect such properties from development or exploitation inconsistent with such values.

Sec. 2-153. Duluth natural areas program created.

There is hereby created for the city of Duluth a Duluth natural areas program, hereafter referred to in this Article as the program, for the purpose of implementing the objectives set forth in Section 2-152 above. Properties eligible for inclusion in the program shall include all city owned tracts of land, whether such tracts lie within the boundaries of the city or outside such boundaries, which meet the program guidelines and are approved for inclusion by resolution of the city council. In addition, all lands owned by others which meet the program guidelines, and the owners of which request that their property be included in the program and commit to donate the property interests necessary to implementing the program protections and the management plan, whether such tracts lie within the boundaries of the city or outside such boundaries, shall be eligible for inclusion in the program.

Sec. 2-154. Guidelines.

(a) Program guidelines to be adopted. The city council shall, by resolution, adopt program guidelines setting forth standards and criteria for consideration of inclusion of various tracts of property in the program, and for selection and implementation of appropriate program protections and management plans for tracts so designated. The minimum standards and criteria for inclusion of a parcel in the program are:

(1) The parcel is of special or unique ecological or environmental significance to the community as set out in Section 2-152, or its successor;

(2) The parcel is eligible land as set out in this ordinance;

(3) The parcel is one of the best remaining viable examples of a significant native plant communities area, or a special species area, or a natural water features area, or an important bird congregation area, or a geologic landform area. These terms may be more specifically defined in the program guidelines;

(4) Inclusion of the parcel in the program is in compliance with any applicable state or federal laws or regulations;

(b) Initial guidelines. The initial program guidelines shall be developed by the environmental advisory council. Such initial program guidelines shall thereafter be reviewed by the planning commission and either recommended to the council for approval as presented by the environmental advisory council, recommended for approval as modified by the commission or recommended for disapproval by the council. The council shall either approve the program guidelines as approved by the commission, adopt amended program guidelines or disapprove the program guidelines and return said program guidelines to the environmental advisory council for further review and recommendation. This process shall continue until the council approves program guidelines for the program;

(c) Amendments. After the adoption of the initial program guidelines, the program guidelines may be amended at any time in accordance with the following process. Amendments to the program guidelines may be initiated by the environmental advisory council, by the planning commission or by the council. All proposed amendments shall be referred to the environmental advisory council for their review and recommendation. After review by the environmental advisory council, any such amendment, together with its affirmative or negative recommendation, shall be referred to the planning commission for its review and recommendation. If recommended for approval by the planning commission, any such amendment shall be referred to the council for its review and approval or disapproval. Except that, upon the affirmative vote of a majority of the council, any proposed amendment which has been reviewed but not recommended for approval by either the environmental advisory council or by the planning commission may be reviewed and considered for approval by the council.

Sec. 2-155. Property designation and protections.

(a) Provisional designation. After adoption of the initial program guidelines in conformance with the provisions of Section 2-154(b) above, specific tracts of land may be designated for inclusion in the program in conformance with the procedures set forth in the program guidelines. Such designation shall be provisional in nature, subject to finalization as provided for in subsection (b) below and shall be accomplished by resolution. Such designation shall only be allowable with regard to tracts which meet or exceed the criteria established in the program guidelines and the resolution designating each tract shall include findings of fact setting forth the elements of the criteria met by each such tract. The designation of any tract for inclusion in the program under this subsection shall not be effective and shall be deemed to be provisional unless and until, within one year of such provisional designation, the specified program protections have been imposed or implemented and a management plan, as described in the program guidelines, has

been approved by the council. If the specified program protections have not been imposed or implemented or a management plan has not been approved within said one year period, the provisional designation shall terminate. Provided, however, that if the applicant petitions the planning commission for an extension of time to allow imposition or implementation of the program protections or the management plan or both, which petition is filed in sufficient time for the planning commission to act prior to the expiration of such provisional designation and is based upon good cause shown, not attributable to the applicant, the planning commission may, by resolution approve an extension of the provisional designation for a period of up to one additional year;

(b) Completion of designation process. After a tract of land has been provisionally designated as provided for in subsection (a) above, the council shall, by resolution or, if necessary to implement the program protections and the management plan, by ordinance approve the program protections deemed appropriate for the designated tract from those provided for in Section 2-156 below and, if implementation of such program protections are within the control of the city, shall authorize, impose or implement such protections on such tract. In addition said resolution or ordinance shall also approve a management plan to be applied to such property along with authorizing whatever action is necessary to implement that management plan;

(c) Process. The provisional designation of any tract and the approval of the program protections and the management plan for such tract shall be accomplished following the same procedures as those established for proposed amendments to the program guidelines set forth in Section 2-154(c) above. Upon completion of the designation process and the adoption of the appropriate program protections and management plan for any tract, the designation of said tract shall be deemed to be final and complete;

(d) If the program administrator determines that a substantial change is needed in the management plan, the management plan may be amended pursuant to the same process by which it was established.

Sec. 2-156. Program protections.

The resolution or ordinance designating any tract for inclusion in the program shall specify what level of program protections shall be applied to each such designated tract. Protections for designated tracts, including the granting of a conservation easement or inclusion in a state preservation program, shall be in one of the following forms and shall be implemented by ordinance or resolution as required by law, the approval of which ordinance or resolution shall require the affirmative vote of seven councilors. Any such designation or conveyance shall be subject to any and all limitations on the title held by the owner of such property at the time of such designation unless and until such limitations are later modified or eliminated in accordance with applicable law:

(a) By resolution, the council may declare its intent to hold such tract in perpetuity for the benefit of the city's residents and, at its option, designating what, if any, development of the tract will be permitted; any property so designated may be conveyed or used in contravention with the terms of this designation only upon the affirmative vote of eight councilors;

(b) By ordinance, dedicate an easement in favor of the general public over such tract generally preserving such tract in the condition it is in at the time of such dedication and limiting the uses to which the property may be put; provided, however, that the provisions preserving the property and limiting the use thereof may, by the dedicatory ordinance, be limited to allow such other uses as the council may deem advisable and set forth the terms and conditions under which such other uses may be permitted;

(c) By ordinance, convey such tract or any interest in said tract held by the city to the state of Minnesota or to such other qualified entity as appropriate for the purpose of preserving such tract in the condition it is in at the time of such conveyance;

(d) By resolution, accept conveyance of any such tract or any portion thereof or of any other interest therein, or to accept a conservation easement over such property meeting the requirements of Minnesota Statutes, Chapter 84C and Section 170(h) of the Internal Revenue Code of 1986, as amended from the owner thereof and, subject to the title or deed of conservation easement received by the city, by resolution or ordinance as appropriate, implement any of the protections set forth in paragraphs (a) through (c) above with regard thereto.

Sec. 2-157. Program administrator.

The director of the department of planning and development is hereby designated as the program administrator for the program. The program administrator shall be responsible to provide all services necessary to the environmental advisory council, the planning commission and the council necessary to the performance of their functions under this Article and under the program guidelines, to implement all aspects of the program including overseeing the implementation of the protections for properties designated under the program and implementation of the management program, to the extent that such implementation is the responsibility of the city, for maintaining all program records and for performing such other responsibilities as are set forth, from time to time, in the program guidelines.

Section 2. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: October 20, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed September 9, 2002

Approved September 9, 2002

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9559

BY PRESIDENT NESS:

AN ORDINANCE AUTHORIZING THE PROPER CITY OFFICIALS
TO EXECUTE AN AGREEMENT AND MORTGAGE IN FAVOR OF

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

THE UNITED STATES DEPARTMENT OF COMMERCE, ECONOMIC DEVELOPMENT ADMINISTRATION.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to execute and do all acts necessary to implement an agreement and mortgage in favor of the United States department of commerce, economic development administration (EDA), substantially in the form of that on file in the office of the city clerk as Public Document No. 02-0909-16.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: October 13, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed September 9, 2002
Approved September 9, 2002
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 23, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stover and President Ness -- 8

Absent: Councilor Stewart -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-0923-01 A & L Properties submitting petitions to vacate:

(a) Air rights above the alley between East Superior Street and East First Street from 120 feet west of the property line on Tenth Avenue East to 145 feet west of the property line on Tenth Avenue East;

(b) Streets, avenues and alleys abutting upon Blocks 1, 2, 3 and 4, Randall's Division of Duluth, including but not limited to Adrian Street, north half of LaPlace Street, that part of Bessel Avenue lying between Blocks 3 and 4, that part of Hansen Avenue lying between Blocks 1 and 2, the alley lying between Blocks 2 and 3, and any street or avenue lying on the east of Block 1 or the west side of Block 4. -- Assessor

02-0923-05 Center for Alcohol and Drug Treatment submitting application for a concurrent use permit for an awning overhang six feet into the Jefferson Street right-of-way at 1402 East Superior Street. -- Planning commission

02-0923-02 Michael and Diane Zengel submitting petition to construct approximately 350 lineal feet of sanitary sewer within Locust Street beginning at the intersection of Ebony Avenue and extending westerly. -- Assessor

02-0923-03 Minnesota state auditor submitting:

(a) Comprehensive annual financial report for the year ended December 31, 2001, for Western Lake Superior Sanitary District;

(b) Management and compliance reports for the year ended December 31, 2001, for: (1) City of Duluth; (2) Western Lake Superior Sanitary District. -- Received

02-0923-04 Sixth Judicial District Chief Judge Gary J. Pagliaccetti submitting order reappointing John Strongitharm, Howard Martz, Kenneth Niebel and Douglas Nelson for terms expiring June 1, 2006; and appointing Joel Sipress, BeVan Presley and Steven Filipovich for terms expiring June 1, 2006. -- Received

02-0923-27 Duluth Area Chamber of Commerce submitting communication supporting the concept of a Downtown/medical district linkage development plan (02-0666R). -- Received

02-0923-28 Jamie Harvie, P.E., submitting documentation regarding the use of mercury containing devices used by area medical facilities (02-040-O). -- Received

02-0923-14 Janet Karon submitting communication regarding the proposed ordinance changing the meeting time of the planning commission (02-044-O). -- Received

02-0923-06 Dale and Patricia Sundin submitting acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance No. 9548 on July 8, 2002. -- Received

- - -

REPORTS OF OFFICERS

02-0923-07 Assessor submitting:

(a) Affidavit of mailing of notice of informational meeting by the special assessment board at 6:30 p.m. on September 26, 2002, in Room 206A, City Hall, and a public hearing at 7:30 p.m. on October 15, 2002, City Council Chambers, City Hall, on the ordering of and levying of assessments against real estate specially benefitted by the improvement of 28th

Avenue East from Branch Street to Superior Street, and 34th Avenue East from Superior Street to First Street (to be included in the 2003 street improvement program). -- Clerk

(b) Letters of sufficiency of petitions to construct:

(1) 250 lineal feet of low pressure sanitary sewer within Swenson Avenue beginning at the intersection of 92nd Avenue West and extending easterly;

(2) 350 lineal feet of sanitary sewer with Locust Street beginning at the intersection of Ebony Avenue and extending westerly. -- Received

02-0923-08 Clerk submitting applications to Minnesota gambling control board for exemptions from lawful gambling licenses from:

(a) Lincoln Park Business Group on November 21, 2002 (bingo);

(b) Order of AHEPA Duluth, Sam G. Solon Chapter No. 267, on November 24, 2002 (bingo). -- Received

02-0923-09 Community development and housing division submitting HUD funded community development program quarterly project status report for the months of April through June, 2002. -- Received

02-0923-10 Engineering division submitting monthly project status report of September 1, 2002. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-0923-11 Building appeal board minutes of July 10, 2002, meeting. -- Received

02-0923-12 Housing and redevelopment authority of Duluth minutes of July 30, 2002, meeting. -- Received

02-0923-13 Parking commission minutes of February 12, 2002, meeting. -- Received

02-0923-15 Planning commission submitting communication regarding the proposed ordinance changing its meeting time (02-044-O). -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Kay L. Lewis voiced concerns on bus safety and lack of signage near intersections.

- - -

Peggy Marrin expressed concern that development plans get pushed through when the comprehensive plan has not been approved and she objected to the use of taxpayers' dollars for projects that fail to succeed.

- - -

RESOLUTION TABLED

Councilor Stenberg moved to remove Resolution 02-0606, amending Resolution 89-0323, as amended by Resolution 98-0949, establishing the Duluth economic development authority (DEDA) to eliminate the requirement that a majority of the commissioners present at a meeting must be city councilors for action to be taken, from the table, which motion was seconded and unanimously carried.

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

Peggy Marrin urged councilors to keep the structure of DEDA the way it is.

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

- - -

MOTIONS AND RESOLUTIONS

The following entitled resolution was read for the first time:

BY COUNCILOR STENBERG

02-0642R - RESOLUTION AUTHORIZING A MINNESOTA INVESTMENT FUND LOAN AGREEMENT WITH CIRRUS DESIGN CORPORATION IN AN AMOUNT NOT TO EXCEED \$500,000.

- - -

CONSENT AGENDA

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

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

BY COUNCILOR ATKINS:

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 27 and 28, 2002, with the serving and music ceasing at 12:30 a.m.

Resolution 02-0635 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale wine license and on sale nonintoxicating malt liquor license for the periods ending August 31, 2003, and April 30, 2003, respectively, subject to departmental approvals, the payment of sales and property taxes, and approval of the liquor control commissioner:

Carla Blumberg (Chester Creek Café), 1902 East Eighth Street.

Resolution 02-0636 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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:

Lakeside/Lester Park Business Association (Lester River Festival), Lester Park, for September 28, 2002 (rain date: September 29, 2002), with Andy Peterson manager.

Resolution 02-0637 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, the Arthritis Foundation has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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 Arthritis Foundation and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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

Resolution 02-0638 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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

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

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

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

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

Licensee	Gambling Site	Date Application Filed
-----------------	----------------------	-------------------------------

Moose Lodge #1478	1306 Commonwealth Avenue	September 10, 2002
-------------------	--------------------------	--------------------

Resolution 02-0639 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Environmental Systems Research Institute (ESRI) be and hereby is awarded a contract for furnishing and delivering G.I.S. software and license for the M.I.S. division in accordance with specifications on its low specification bid of \$14,847.45, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 700, Organization 1418, Object 5201.

Resolution 02-0646 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that A. W. Kuettel & Sons be and hereby is awarded a contract for roof restoration at Fryberger arena, located at Isanti Street and Allendale Avenue, in accordance with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

specifications on its low specification bid of \$60,635, terms net 30, FOB job site, payable out of Capital Improvement Fund 0450, Dept./Agency 015, Organization 2002, Object C209.

Resolution 02-0647 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Schwab-Vollhaber-Lubratt Service be and hereby is awarded a contract for furnishing and delivering a dehumidifier unit to be installed at the Fryberger Arena for the architect division in accordance with specifications on its low specification bid of \$31,193.85, terms net 30, FOB factory, payable out of Capital Improvements Fund 0450, Dept./Agency 015, Organization 2002, Object C209.

Resolution 02-0648 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of secretarial specialist, which were approved by the civil service board on August 6, 2002, and which are filed with the city clerk as Public Document No. 02-0923-16, are approved. This classification shall remain subject to the city's collective bargaining agreement with its confidential unit employees and compensated at Pay Range 3, \$1,999 to \$2,368 per month.

Resolution 02-0621 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of meter reader, which were approved by the civil service board on September 3, 2002, and which are filed with the city clerk as Public Document No. 02-0923-17, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 22, \$2,263 to \$2,666 per month.

Resolution 02-0622 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of manager, employment and training, including a title change to manager, workforce development, which were approved by the civil service board on September 3, 2002, and which are filed with the city clerk as Public Document No. 02-0923-18, are approved. This classification remains represented by the supervisory unit and compensated at Pay Range 1085, \$4,154 to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

\$5,065 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 02-0623 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of senior buyer, which were approved by the civil service board on September 3, 2002, and which are filed with the city clerk as Public Document No. 02-0923-19, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 133, \$3,301 to \$3,924 per month.

Resolution 02-0625 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointment to the sister city commission by Mayor Doty of Jim Stauber (city council) replacing Gary Eckenberg for a term expiring January 3, 2005, is hereby confirmed.

Resolution 02-0661 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the alley located between Blackman and Connecticut avenues and between Davis and Howtz streets, legally described as: the alley in Block 1, Claque and Prindles Addition; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its September 10, 2002, 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. 02-0923-20.

FURTHER RESOLVED, that the full right-of-way be retained as a utility easement.

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

Resolution 02-0629 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BY COUNCILOR STENBERG:

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

File No.	Applicant	Legal Description	Location
02045	Allen V. Boben	Block 7, Lot 3, Norton's Steel Plant Division Parcel ID No.: 010-3540-01950	east side of Commonwealth Avenue, north of Crestline Court in Gary-New Duluth neighborhood
02053	Patrick Rush	Block 138, part of Lots 123 and 125, lying south of Winona Avenue extended, Duluth Proper Third Division Parcel ID No.: 010-1350-10700	northeast corner of the intersection of West Ninth Street with North Eighth Avenue West/Orange Street in the upper Central Hillside neighborhood
02082	Scott Miller	Block 1, Lot 20, Norton's Steel Plant Division Parcel ID No.: 010-3540-00200	north side of Glencrest Court between 98th Avenue West and Commonwealth Avenue in Gary-New Duluth neighborhood
02092	Scott Gilson	Block 8, Lot 3, and northerly 20 feet of Lot 4, Hunter's Grassy Point Addition Parcel ID No.: 010-2320-00550	South 61st Avenue West between Raleigh Street and Redruth Street, in the Irving neighborhood of West Duluth
02095	Juliann Micken	Block 12, Lots 16 and 17, except northerly ten feet, Ironton First Division Parcel ID No.: 010-2520-02230	east side of Grand Avenue between 83rd and 84th avenues West, near Riverside neighborhood

Resolution 02-0640 was unanimously adopted.
Approved September 23, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

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 2002

File No.	Applicant	Legal Description	Location
02064	Tom Cotruvo Duluth economic development authority (DEDA)	Parcel #1: east 16 feet of northerly 70 feet of Lot 18, and west 17 feet of northerly 70 feet of Lot 20, Duluth Proper First Division, East Second Street Parcel ID No.: 0950-00770 Parcel #2: southerly 25 feet of northerly 55 feet of Lots 17 and 19, Duluth Proper First Division, East First Street Parcel ID No.: 0930-00180	partial lots between East First and Second streets and North First and Second Avenues East in Downtown Duluth

Resolution 02-0641 was unanimously adopted.
Approved September 23, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of the westerly seven inches of the alley right-of-way and the vacation of a portion of the air rights 18 feet above and extending over the alley adjacent to Lot 1, Block 7, in the plat of Norton's Steel Plant Division, legally described as:

that portion of the alley in the plat of Norton's Steel Plant Division, adjacent to Lot 1, Block 7, described as follows: beginning at the southwest corner of Lot 1, Block 7, in the plat of Norton's Steel Plant Division thence easterly along the south line of said Lot 1 extended seven inches, thence deflect 90 degrees to the left in a northerly direction a distance of 29 inches to the point of intersection with the east line of said Lot 1; and

the air rights, 18 feet above that portion of the alley in the plat of Norton's Steel Plant Division, adjacent to Lot 1, Block 7, described as follows: Beginning at the southwest corner of Lot 1, Block 7, in the plat of Norton's Steel Plant Division thence easterly along the south line of said Lot 1 extended 19 inches, thence deflect 90 degrees to the left in a northerly direction a distance of 80 inches to the point of intersection with the east line of said Lot 1; 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 10, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of described above and as more particularly described on Public Document No. 02-0923-21.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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

Resolution 02-0658 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the amendment to the At Home in Duluth property acquisition/demolition program agreement between the Duluth economic development authority (DEDA) and the HRA increasing the amount payable thereunder by \$25,000, as approved by the DEDA board at its meeting of September 17, 2002, pursuant to DEDA Resolution No. 02D-44, a copy of which is on file in the office of the city clerk as Public Document No. 02-0923-22, is hereby approved.

Resolution 02-0659 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that the proper city officers are hereby authorized to execute a \$30,000 grant agreement with the Minnesota pollution control agency for the implementation of a non-point source pollution reduction program in the Miller Creek watershed; said agreement filed with the city clerk as Public Document No. 02-0923-23; said grant funds to be deposited in Special Projects Fund 0210, Agency 030, Org. 2139, Revenue Source 4230.

Resolution 02-0649 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the South St. Louis Soil and Water Conservation District; said agreement filed with the city clerk as Public Document No. 02-0923-24, for implementing a non-point source pollution reduction program in the Miller Creek watershed for a consideration of \$30,000 to be paid from Special Projects Fund 0210, Agency 030, Org. 2139.

Resolution 02-0650 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

WHEREAS, the city of Duluth and St. Louis County are studying the feasibility of developing a joint public safety facility to be used by both units of government and to that end have formed a city-county joint public safety facility committee; and

WHEREAS, in order to proceed further with discussions about a joint public safety facility it is necessary to do a space analysis to document the space needs of the Duluth police department and the St. Louis County sheriffs department; and

WHEREAS, St. Louis County has agreed to contract with Stanius Johnson Architects to do such a study provided that the city of Duluth would pay for one half of it; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

WHEREAS, St. Louis County has received a proposal from Stanius Johnson Architects to do such a study for a proposed cost of \$18,000.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby agrees to pay St. Louis County \$9,000 as the city's half of a public safety facility space needs analysis to be done by Stanius Johnson Architects.

RESOLVED FURTHER, that \$8,000 of the above payment will come from Fund 0100, Agency 200, Org. 1620, Object 5441 and that \$1,000 of the payment will come from Fund 0100, Agency 015, Org. 2500, Object 5441.

Resolution 02-0656 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, by Resolution of Intent numbered 02-0595 the council did request the administration to prepare plans and specifications for the construction of 250 feet of sanitary sewer in Swenson Avenue beginning at the intersection of 92nd Avenue West and extending easterly (City Job No. 0283SN) at an estimated cost of \$22,000; and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; proper notice has been sent to the benefitting property owners; the special assessment board has 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 \$22,000, payable from Special Assessment Fund 0410, Agency 038, Organization 5359, Object 5530, and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 02-0630 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct 350 feet of sanitary sewer in Locust Street beginning at the intersection of Ebony Avenue and extending westerly.

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

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

Resolution 02-0631 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute Mn/DOT Agreement No. 83661 with the state of Minnesota for the relocation of a gas main at Trunk Highway 35 (freeway) and Garfield Avenue within the corporate limits of Duluth and constructed as City Project No. 0181GS and State Project No. S.P. 6982-275; said agreement filed as Public Document No. 02-0923-25. Under the agreement, the state shall contribute \$145,678 which shall be deposited in Gas Fund 0520.

Resolution 02-0633 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 01-0835 to Letourneau and Sons, Inc., for the construction of Lincoln Park slope stabilization and Ninth Street storm sewer, be amended to increase the amount by \$28,000 for a new total of \$87,222, payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 02-0634 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to enter into a temporary license agreement, a copy of which is on file in the office of the city clerk as Public Document No. 02-0923-26, with R.R.M. L.L.C. for the temporary use of certain property in conjunction with the construction of the new Garfield Avenue public works facility in an amount of not to exceed \$15,000, payable from Fund 0522, Agency 500, Object 5532.

Resolution 02-0643 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Midway Contractors, Inc., be and hereby is awarded a contract for the extension of 85th Avenue West, including curb and gutter, sanitary sewer, water main and gas main for the engineering division in accordance with specifications on its low bid of \$40,123.40, terms net 30, FOB job site, payable out of Special Assessment Fund 0410, Dept./Agency 038, Organization 5358, Object 5530.

Resolution 02-0644 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 00-0716 to L.H.B. Architects and Engineers for the engineering services required for design phase for the rehabilitation of Bridge No. L8505 over Amity Creek on Seven Bridges Road, be amended to increase the amount by \$17,495 for a new total of \$41,387, payable out of Permanent Improvement Fund 0411, Dept./Agency 035,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Organization 2110, Object 5530.

Resolution 02-0645 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the improvement of Superior Street from 26th Avenue East to 47th Avenue East; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction phases; 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 \$239,727, will be payable from the Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2186, Object 5530; to be reimbursed through municipal state aid (MSA)/turnback funds.

Resolution 02-0652 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the improvement of Marshall Street, Hartley Estates Third Addition; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for construction phases; 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 \$55,000, will be payable from the Special Assessment Fund 0410, Dept./Agency 038, Organization 5356, Object 5530.

Resolution 02-0653 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide improvement of 19th Avenue East, from Eighth Street to College Street; and

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

WHEREAS, L.H.B. Architects and Engineers has submitted a proposal for engineering services in connection with this project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with L.H.B. Engineers and Architects to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$126,600, will be payable from the Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2185, Object 5530; to be reimbursed through municipal state aid (MSA) funds.

Resolution 02-0654 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Midway Contractors, Inc., be and hereby is awarded a contract for the storm sewer improvements at Oregon Creek and Grey's Creek for the engineering division in accordance with specifications on its low bid of \$181,532.50, terms net 30, FOB job site, payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 02-0657 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 02-0628, by Councilor Stenberg, vacating a stormwater easement in Richards' First Addition and a ten foot-wide utility easement in Arrowhead Second Addition (Richards), was introduced for discussion.

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

Julie Opack, Pauline Davies and Lana DeSanto voiced the following concerns regarding the consequences of vacating the stormwater easement: it will add to the water problems that already exist on their property; they have spent thousands of dollars directing the flow of water away from their houses; they are not opposed to the construction of homes, but are concerned that any new connections to the stormwater sewer will exacerbate the runoff that now flows down into their houses.

Mark McShane, acting administrative assistant, stated that the engineering division is aware of the existing problems and that the stormwater sewer will be upgraded so that it will benefit the current households as well as the new development.

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

- - -

At this time, 7:35 p.m., President Ness adjourned the regular order of business and stated that the public hearing regarding a proposed business subsidy grant to Cirrus Design Corporation.

There were no speakers who wished to be heard, and at this time, 7:40 p.m., President Ness closed the public hearing and the regular meeting was resumed.

- - -

Resolution 02-0655, by Councilor Stenberg, adopting the Bayfront master plan as a guideline for the future redevelopment of the Bayfront area, was introduced for discussion.

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

Kay L. Lewis urged the council to support the Bayfront master plan and noted that it will be of benefit to Duluth.

Peggy Marin opposed adoption of the plan until the comprehensive plan has been approved.

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

- - -

Resolution 02-0666, by Councilor Stenberg, expressing support for the concept of a Downtown/medical district linkage development plan that may include the development of a parking structure in partnership with St. Mary's/Duluth Clinic (SMDC), was introduced for discussion.

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

Tom Klassen, representing SMDC, urged support of the concept of the medical district linkage plan and stated that SMDC hopes to launch the project in the spring of 2003. He continued that SMDC is ready to present their plans to the city in order to get the details worked out.

The following individuals spoke in favor of the resolution: Darrel Goodboo, vice president of Duluth Business Trades; Norm Voorhees; Kristi Stokes, representing the Greater Downtown Council; David Ross, representing the Duluth Area Chamber of Commerce, and Dave Grandau.

Reasons given in support of the resolution were as follows: this project will provide good paying job opportunities for the local building trade and construction workers and new full time positions in the medical industry; Downtown Duluth will benefit because it will be connected to the medical district and provide the potential for business development, expansion, revitalization and business retention to the Downtown area; it is important for the city to support SMDC with this district linkage to the Downtown and also provide parking with the construction of a parking ramp.

Peggy Marrin stated that there are a lot of unresolved issues that the city has to deal with regarding this project and she urged the council to move forward with caution.

Resolution 02-0666 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, the healthcare industry employs one in every seven Duluthians and represents the most significant sector of the regional economy; and

WHEREAS, the growth of this industry sector is critical to the future economic health of this community; and

WHEREAS, the mayor's economic summit of November 2001 called for the sustained growth of the healthcare sector, together with the connection of the medical campuses with the adjacent commercial districts of the Downtown; and

WHEREAS, the medical district framework plan of June 2002 called for the focus of medical center growth away from residential neighborhoods and toward connectivity with commercial corridors; and

WHEREAS, St. Mary's Duluth Clinic (SMDC) has announced a \$75 million expansion of its medical campus in Duluth, conditioned on the provision of public parking and skywalk infrastructure; and

WHEREAS, the medical center expansion will serve as a catalyst to other private development, bringing the total private investment in the community to \$100 million in new construction dollars which are essential to the building trades and local economy; and

WHEREAS, the medical center expansion will serve to revitalize the old Downtown east of Lake Avenue and, by targeting reinvestment into the urban core, contribute to the sustainable development of the metropolitan area;

NOW, THEREFORE, BE IT RESOLVED, that the city council supports the concept of a Downtown/medical district link, thereby endorsing the partnership between the medical district and the city.

BE IT FURTHER RESOLVED, that the Duluth City Council encourages the immediate development of a revised old Downtown plan that involves the participation of the Downtown medical community.

Resolution 02-0666 was unanimously adopted.

Approved September 23, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0626, by Councilors Bergson, Stewart and Stover requesting the administration to conduct an independent financial and performance audit of the city's animal shelter operations, was introduced for discussion.

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

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR STENBERG

02-042 - AN ORDINANCE AMENDING SECTIONS 50-1.43, 50-13 AND 50-47 OF THE DULUTH CITY CODE, 1959, AS AMENDED RELATING TO DEFINITIONS AND POWERS OF THE BOARD OF ZONING APPEALS.

- - -

BY COUNCILOR STENBERG

02-043 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 26 AND 27 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S - SUBURBAN TO IT - INDUSTRIAL TECHNOLOGY PROPERTY LOCATED NORTHEAST OF THE INTERSECTION OF HAINES AND ARROWHEAD ROADS.

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

Frank Holoppa reviewed the history of the property and stated that this property was deemed appropriate for business park use and was included in the Northwest Corner study plan and is included in the comprehensive plan for District No. 4. He continued that business parks have had success in Duluth, but that there have not been areas with a campus type development site for new and expanding employers.

Ron DeGrio stated that during the community discussion of the Northwest Corner study, Mr. Holoppa had the support of the residents who are aware of the potential commercial use of this property.

- - -

BY COUNCILOR STOVER

02-044 - AN ORDINANCE PERTAINING TO THE PLANNING COMMISSION, REQUIRING ALL PLANNING COMMISSION MEETINGS TO START AFTER 5:00 P.M., AMENDING SECTION 4 OF ORDINANCE NO. 1809.

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

Peggy Marrin urged support for the ordinance.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STENBERG

02-041 (9560) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 33 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM "S" SUBURBAN TO "R-3" APARTMENT RESIDENTIAL, APPROXIMATELY 30 ACRES OF LAND LOCATED ALONG THE NORTH SIDE OF RICE LAKE ROAD, ONE QUARTER MILE NORTH OF ARROWHEAD ROAD, JUST NORTH OF THE UNIPRISE PROPERTY.

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

Peggy Marrin voiced concern that this plan was not included in the Northwest Corner Study.

Jerry Kimball stated that this proposal goes against the basic concept of the Northwest Corner study plan for the Rice Lake Road area, and this ordinance change has the potential of setting a negative precedent by creating high density zoning with a low density usage and urged the council to vote it down. He reviewed that there is another planning process available that would better serve the area that is to zone the property R-1-a and obtain a special use permit.

George Hovland, developer, reviewed that this project is to fill a housing need in the area, and that the area businesses are in favor of the development.

Ron DeGrio supported the ordinance and stated that it is consistent with the Northwest Corner study and has the support of the planning commission.

President Ness and Councilor Gilbert stated their support for low density housing, but stated that the Northwest Corner study does include R-3 zoning for this area and supported the process of rezoning and acquisition of a special use permit for this project.

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

Yeas: Councilors Atkins, Bergson, Hogg, Stauber, Stenberg and Stover -- 6

Nays: Councilor Gilbert and President Ness -- 2

Absent: Councilor Stewart -- 1

- - -

BY PRESIDENT NESS

02-040 (9561) - AN ORDINANCE PERTAINING TO MERCURY AND MERCURY CONTAINING ITEMS; AMENDING SECTION 28-61, DULUTH CITY CODE, 1959, AS AMENDED.

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

Jamie Harvie urged support of this ordinance as it has broad support of the community and Duluth has received recognition worldwide on this issue.

President Ness moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

BY COUNCILOR STOVER

02-039 (9562) - AN ORDINANCE DEDICATING AN EASEMENT FOR PUBLIC STREET AND HIGHWAY PURPOSES.

Councilor Stover 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. 9560

BY COUNCILOR STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 33 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM "S" SUBURBAN TO "R-3" APARTMENT RESIDENTIAL, APPROXIMATELY 30 ACRES OF LAND LOCATED ALONG THE NORTH SIDE OF RICE LAKE ROAD, ONE QUARTER MILE NORTH OF ARROWHEAD ROAD, JUST NORTH OF THE UNIPRISE PROPERTY (G. HOVLAND).

The city of Duluth does ordain:

Section 1. That Plate No. 33 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(MAP)

(see page 479)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 3, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stover and President Ness -- 8

Nays: None -- 0

Absent: Councilor Stewart -- 1

Passed September 23, 2002

Approved September 23, 2002

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9561

BY PRESIDENT NESS:

AN ORDINANCE PERTAINING TO MERCURY AND MERCURY CONTAINING ITEMS; AMENDING SECTION 28-61, DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 28-61 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 28-61. Sale and purchase of various mercury containing devices prohibited.

Unless otherwise provided by state or federal law:

(a) No person shall sell at retail or offer for sale at retail within the city any fever thermometer or basal thermometer containing mercury;

(b) No public or private school in Duluth offering kindergarten, elementary, junior high school or high school classes shall purchase bulk elemental mercury or mercury compounds for use in classrooms;

(c) For purposes of this paragraph, the words "mercury sphygmomanometer" means a mercury containing device used to measure blood

pressure. No person shall sell, purchase, install or reinstall a mercury sphygmomanometer within the city;

(d) For the purposes of this paragraph the words "gastrointestinal devices" means a mercury containing device passed into the gastrointestinal tract commonly referred to as a Miller Abbott tube, cantor tube or bougie or as feeding tubes. Gastrointestinal devices may not be sold or purchased within the city;

(e) For the purposes of this paragraph, the word "thermostat" means a device commonly used to sense and, through electrical communication with heating, cooling or ventilation equipment, control room temperature. No person shall sell or install in a commercial or residential building in the city any thermostat that contains mercury;

(f) For the purposes of this paragraph, the word "barometer" means a device used to measure atmospheric pressure. No person shall sell or purchase a barometer which contains mercury within the city unless such sale or purchase is required by federal regulations;

(g) For the purposes of this paragraph, the work "psychrometer" means a device used to measure relative humidity. No person shall sell or purchase a psychrometer which contains mercury within the city unless such sale or purchase is required by federal regulations.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication, except that paragraphs (c) and (e) shall not take effect until one year after the passage and publication of this ordinance. (Effective date (all except paragraphs (c) and (e): November 28, 2002; paragraphs (c) and (e) effective date: November 28, 2003)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stover and President Ness -- 8

Nays: None -- 0

Absent: Councilor Stewart -- 1

Passed September 23, 2002

Approved September 23, 2002, pursuant to Section 12 of the Duluth City Charter.

- - -

ORDINANCE NO. 9562

BY COUNCILOR STOVER:

AN ORDINANCE DEDICATING AN EASEMENT FOR PUBLIC STREET AND HIGHWAY PURPOSES.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby dedicates an easement to the public for public street and highway purposes over Lot 3, Block 1, Airport Division in St. Louis County, Minnesota; said easement being particularly described as a 60.00 foot permanent easement for highway purposes over, under and across the southerly 60.00 feet of Lot 3, Block 1, Airport Division, St. Louis County, Minnesota.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 3, 2002)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stover and President
Ness -- 8

Nays: None -- 0

Absent: Councilor Stewart -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed September 23, 2002

Approved September 23, 2002

GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, October, 15, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stewart, Stover and President Ness -- 8

Absent: Councilor Stenberg -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-1015-01 Peter Christianson, et al. (38 signatures), submitting petition to construct a sanitary sewer along Anderson Road to serve properties lying between Haines Road and Decker Road. -- Assessor

02-1015-02 Habitat for Humanity submitting petition to vacate 64th Avenue West extending north from Redruth Street to a northern boundary on the abandoned BNSF right-of-way. -- Assessor

02-1015-03 Donald Morse, et al. (two signatures), submitting petition to construct approximately 260 lineal feet of sanitary sewer and 230 lineal feet of watermain within Denney Drive beginning at the intersection of 12th Avenue East and extending easterly. -- Assessor

02-1015-04 Nylen, Magie and Strum Properties submitting petition to vacate that portion of Third Avenue East lying between Lots 47 and 49, Block 166-1/2, Duluth Proper Third Division. -- Assessor

02-1015-05 Kimberly Schweiger, et al. (six signatures), submitting petition to vacate the alley in Block 7, Rearrangement of Nortons Bayview Outlots of Duluth. -- Assessor

02-1015-32 Rich and Monica Dille submitting communication regarding the vacation of the alley between Blocks 15 and 20 and Huntington Street between Blocks 20 and 23, Lloyds Division of West Duluth (02-0676R). -- Received

02-1015-06 Joseph Kleiman submitting acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance No. 9555 on August 12, 2002. -- Received

02-1015-07 St. Louis County Heritage and Arts Center submitting application for rental during which alcoholic beverages will be served from Katie Harich on October 11, 2002. -- Received

02-1015-33 The following submitting communications regarding appeal of the board of zoning appeals' decision to allow the construction of a two level parking garage at 1001 East Superior Street (02-0687R): (a) A & L Development, Inc., by Mark D. Pilon, attorney; (b) St. Luke's, by Steven J. Seiler, attorney. -- Received

02-1015-34 The following submitting communications regarding the proposed ordinance changing the meeting time of the planning commission (02-044-O): (a) Deborah Kirpach; (b) Donn Larson; (c) Roni Segar Town. -- Received

02-1015-28 The following submitting communications regarding 2003 low income housing tax credits (02-0700R): (a) At Home In Duluth; (b) Low Income Housing Consortium. -- Received

- - -

REPORTS OF OFFICERS

02-1015-08 Assessor submitting:

(a) Affidavit of mailing of notice of public hearing by the special assesement board on Tuesday, October 8, 2002, at 4:00 p.m. in Room 106A, City Hall, regarding the proposed sanitary sewer for Locust Street from Ebony Avenue extending 300 feet westerly. -- Clerk

(b) Letters of sufficiency to:

(1) Construct a sanitary sewer along Anderson Road to serve properties lying between Haines Road and Decker Road;

(2) Construct approximately 260 lineal feet of sanitary sewer within Denney Drive beginning at the intersection of 12th Avenue East and extending easterly;

(3) Vacate that portion of Third Avenue East lying between Lots 47 and 49, Block 166-1/2, Duluth Proper Third Division;

(4) Vacate all of the streets, avenues and alleys abutting upon Blocks 1, 2, 3 and 4, Randall's Division. -- Assessor

02-1015-09 Building official submitting appeal of the BZA denial of a variance to reduce the minimum front yard setback from 60 feet to 32 feet and the minimum side yard setback from 25 feet to 20 feet for the construction of a 26 foot by 42 foot detached garage on property located at 1805 Norton Road (Semaan). -- Committee 2 (Physical development)

02-1015-10 Clerk submitting application to Minnesota gambling control board for exemption from lawful gambling license (bingo) from St. Margaret Mary Church on November 24, 2002. -- Received

02-1015-11 Community development and housing division submitting:

(a) HRA housing rehabilitation report for July, 2002;

(b) 2003 CDBG funding requests. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-1015-31 Alcohol, gambling and tobacco commission minutes of: (a) July 3; (b) July 9; (c) August 1; (d) August 13, 2002, meetings. -- Received

02-1015-12 Duluth airport authority: (a) Minutes of August 20, 2002, meeting; (b) Unaudited balance sheet of July 2002. -- Received

02-1015-13 Duluth/North Shore Sanitary District minutes of September 10, 2002, meeting. -- Received

02-1015-14 Duluth transit authority minutes of June 19, 2002, meeting. -- Received

02-1015-15 Planning commission minutes of: (a) July 9; (b) August 13, 2002, meetings. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Carol Thomson, representing of the mayor's steering committee for the comprehensive plan, expressed the members' frustration over the time commitment that has been put into meetings and the administration's lack of leadership and inaction. She continued that the committee passed a resolution unanimously urging the city administration and city council to place a high priority on continuing and completing the comprehensive planning process with the greatest possible speed and adequate funding to produce an effective comprehensive plan.

- - -

Rosemary Guttormsson, representing the League of Women Voters, stated that the league has a long history of supporting the need for a comprehensive plan for the city and she urged the council to support the resolution that Carol Thomson referenced.

John Gordon questioned what constitutional right the city has to not to allow him to smoke in a building when the owner allows smoking; and not allow him to carry a gun.

- - -

Elijah voiced his concern over about veterans who are drunk, spend their money at the casinos and cause problems at bus stops and on the buses.

- - -

Kay L. Lewis reviewed several public safety issues in the city.

- - -

Mark Gunderson stated that there are places in the United States that are overpopulated and running out of room, and there should be mandatory cremation in Duluth so that good land will not be used for cemeteries.

- - -

Greg Price questioned whether the legislative support regarding the Lake Superior Watershed Protection law. He also urged the council to support and remember those who have defended this country in the past by passing a resolution supporting Highway 23 be renamed in memory of the Native American veterans; and a resolution supporting Congressman Oberstar's proposed legislation to create a Native American veteran memorial, which would be a federal memorial in the city of Duluth.

- - -

At this time, 7:35 p.m., President Ness recessed the council meeting and stated that the public hearing regarding amendments to the 2003 street improvement program would begin.

Mike Metso, city engineer, explained that the purpose of this public hearing is to amend the 2003 street improvement program by adding 28th Avenue East and 34th Avenue East to it.

No one appeared who wished to be heard and at this time, 7:40 p.m., President Ness closed the public hearing and announced that the council meeting would resume.

- - -

Kathryn Snarich requested council assistance to allow her to use city property at the Washington Center as playground space for her day care center children.

- - -

Warner Wirta, Connie Ross, James Lightfeather and David Manuel reviewed their opposition to the golf course project at Spirit Mountain because it is a burial ground for all people, not just Native Americans; and it is a spiritual place where traditions are passed down to new generations.

- - -

RESOLUTIONS TABLED

Councilor Stauber moved to remove Resolution 02-0606, amending Resolution 89-0323, as amended by Resolution 98-0949, establishing the Duluth economic development authority (DEDA) to eliminate the requirement that a majority of the commissioners present at a meeting must be city councilors for action to be taken, by Councilor Stenberg, from the table, which motion was seconded and unanimously carried.

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

Kay L. Lewis and Peggy Marrin stated that DEDA is needed to enhance the city government, and that DEDA already has checks and balances in place without the establishment of more controls.

Councilor Atkins moved to retable the resolution for a committee meeting with DEDA, which motion was seconded and unanimously carried.

- - -

Councilor Stauber moved to remove Resolution 02-0655, adopting the Bayfront master plan as a guideline for the future redevelopment of the Bayfront area, by Councilor Stenberg, from the table, which motion was seconded and unanimously carried.

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

Kay L. Lewis urged the council to move forward with a plan for Bayfront to help the economy of Duluth, and she encouraged that the plan match the style and taste of existing Lakewalk.

Bob Krumwiede, president of the Bayfront Visions Group, stated that the group agrees that a possible amendment to the plan which will allocate a greater amount of Pier 9 and establish a green corridor around Slip 3 is an acceptable compromise because it should be a public and green space for the tourists and citizens of Duluth.

Peggy Marrin encouraged the councilors to be open to all ideas and suggestions of the Bayfront master plan.

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

- - -

UNFINISHED BUSINESS

BY COUNCILOR HOGG (introduced by Councilor Stenberg):

RESOLVED, that the proper city officials are hereby authorized to enter into a Minnesota investment fund loan agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 02-1015-17 with Cirrus Design Corporation (Cirrus) in an amount not to exceed \$500,000 payable from Fund 0235 - Duluth recovery loan fund program, contingent upon receipt of a Minnesota investment fund grant from the Minnesota department of trade and economic development.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such documents and do all acts necessary to implement said loan agreement with Cirrus.

Resolution 02-0642 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

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

BY COUNCILOR HOGG:

WHEREAS, the Duluth City Council has confirmed assessments for the properties, amounts and dates listed on Public Document No. 02-1015-18; and

WHEREAS, the property referred to in said resolutions were forfeited to the state of Minnesota for non-payment of real estate taxes but has since been returned to private ownership; and

WHEREAS, the city has held a hearing regarding the reassessment of said sums against said properties after notice to all necessary parties, said hearing and notice thereof complying with the requirements of Section 62 of the Duluth City Charter and Section 45-79 and any other applicable sections of the Duluth City Code, 1959, as amended; and

WHEREAS, the city council has determined that the work for which the assessments were originally levied have benefitted the respective properties by amounts at least equal to or in excess of amounts originally assessed against each such property, including the amounts of the canceled assessments.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

RESOLVED, that pursuant to the authorization of Laws of Minnesota, 1997, Chapter 231, Article 2, Section 53, the following previously canceled assessments are hereby reassessed in the amounts set forth in the table below:

- (a) Water main (Contract No. 1179081 - assessable amount \$2,300.75);
- (b) Gas main (Contract No. 1179082 - assessable amount \$2,300.14);

and that this reassessment role is hereby confirmed.

Resolution 02-0664 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

WHEREAS, on May 15, 1995, the city council approved Resolution No. 95-0322 assessing the property referred to therein as "Parkwood Phase III" for the cost of street and utility improvements to the property, \$23,512.27 of which remains unpaid; and

WHEREAS, the property referred to in said resolution as Parkwood III subsequently was forfeited to the state of Minnesota for non-payment of real estate taxes but has since been returned to private ownership; and

WHEREAS, the city held a hearing regarding the reassessment of said sum against said property, said hearing and notice thereof complying with the requirements of Section 62 of the Duluth City Charter and Section 45-79 of the Duluth City Code, 1959, as amended; and

WHEREAS, the city council has determined that the work for which the assessment was originally levied has benefitted the respective property by an amount at least equal to or in excess of the amount originally assessed against such property, including the amount of the canceled assessment.

RESOLVED, that pursuant to the authorization of Laws of Minnesota, 1997, Chapter 231, Article 2, Section 53, the following, previously canceled assessment is hereby reassessed in the amount set forth below and that this reassessment role is hereby confirmed:

Parkwood Phase III \$23,512.27

Resolution 02-0665 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a supplemental agreement with Local 66, City and County Public Service Union of the A.F.S.C.M.E., in substantially the form and containing the terms and conditions set out in that agreement on file with the city clerk as Public Document No. 02-1015-19 (corrections for matters such as grammar, labels, correct name of the parties, spelling being allowed).

Resolution 02-0677 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a supplemental agreement with the confidential unit of the city of Duluth, represented by Union of Needle Trades, Industrial and Textile Employees Local 150, in substantially the form and containing the terms and conditions set out in that agreement on file with the city clerk as Public

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Document No. 02-1015-20 (corrections for matters such as grammar, labels, correct name of the parties, spelling being allowed).

Resolution 02-0678 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a supplemental agreement with Local 101, International Association of Fire Fighters, in substantially the form and containing the terms and conditions set out in that agreement on file with the city clerk as Public Document No. 02-1015-21 (corrections for matters such as grammar, labels, correct name of the parties, spelling being allowed).

Resolution 02-0679 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a supplemental agreement with Duluth Police Local, in substantially the form and containing the terms and conditions set out in that agreement on file with the city clerk as Public Document No. 02-1015-22 (corrections for matters such as grammar, labels, correct name of the parties, spelling being allowed).

Resolution 02-0680 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

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, in substantially the form and containing the terms and conditions set out in that agreement on file with the city clerk as Public Document No. 02-1015-23 (corrections for matters such as grammar, labels, correct name of the parties, spelling being allowed).

Resolution 02-0681 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Kraus Anderson Construction, Inc., be and hereby is awarded a contract for the construction of Hartley nature center for the city architect division in accordance with specifications on its low specification bid of \$1,730,300, terms net 30, FOB job site, payable out of Capital Improvements Fund 0450, Dept./Agency 015, Organization 2002, Object C221.

Resolution 02-0695 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that A.W. Kuettel & Sons be and hereby is awarded a contract for roof

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

replacement at Fire Station No. 7, located at 1419 West Maple Grove Road, in accordance with specifications on its low specification bid of \$25,800, terms net 30, FOB job site, payable out of Capital Improvement Fund 0450, Department/Agency 015, Organization 2002, Object C204.

Resolution 02-0699 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, the Duluth Art Institute and the Animal Allies Humane Society have applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Duluth Art Institute and the Animal Allies Humane Society 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 02-0703 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointment to the sanitary sewer board of the Western Lake Superior Sanitary District by Mayor Doty of Robert A. Prusak, replacing Royal D. Alworth, for a term expiring July 1, 2005, is hereby confirmed.

Resolution 02-0667 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the city council hereby reappoints Janet Nelson to the Seaway Port authority of Duluth for a term expiring October 10, 2008.

Resolution 02-0674 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointments to the commission on disabilities of the following by Mayor Doty are confirmed:

Richard Anderson and Joyce Blodgett for terms expiring November 1, 2005.

Resolution 02-0689 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointments to the Duluth housing commission of the following by Mayor Doty are confirmed:

Jeffrey D. Anderson (at large), Judy H. Brown (real estate) and Gary Eckenberg (at large) for terms expiring November 8, 2005.

Resolution 02-0690 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointment of Lynn Beechler (real estate broker) to the special board of review by Mayor Doty for a term expiring July 31, 2006, is confirmed.

Resolution 02-0691 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointments to the water and gas service hearing board of the following by Mayor Doty are confirmed:

Richard J. Andree, Peter Scott Downs and Edwin S. Levey for terms expiring September 1, 2005.

Resolution 02-0692 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the agreement in the amount of \$97,500 between the Duluth economic development authority (DEDA) and NHS for the HARP IV program and an agreement between DEDA and the LISC in the amount of \$40,000, as approved by the DEDA board at its meeting of September 17, 2002, pursuant to DEDA Resolution No. 02D-48, copies of which are on file in the office of the city clerk as Public Document No. 02-1015-24, are hereby approved.

Resolution 02-0660 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, on June 14, 2002, John E. Hovland, owner of Blocks 1, 2, 4, 5, 6 and 7 in the plat of Greenbriar Hills in the city of Duluth, petitioned the Duluth City Council for the vacation of all of the streets and easements in those blocks except for a 240 foot MP&L utility easement running across Blocks 1 and 2 and except for MacFarlane Road; and

WHEREAS, the city council passed Resolution No. 02-0503 on July 22, 2002, which purported to vacate the streets and easements requested by the petitioner; and

WHEREAS, because Resolution 02-0503 contained an ambiguous description of the streets and easements vacated, and because the resolution only covered street and utility easements, the resolution did not vacate a ten foot utility easement lying between Lots 1 and 2

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

of Block 1 and did not vacate flood plain easements that were inaccurately placed on Blocks 1, 2, 4 and 5 in the existing plat; and

WHEREAS, the clearest and most expedient way to remedy these technical errors is to rescind Resolution No. 02-0503 and to restate the terms of the vacation accurately in this resolution.

NOW, THEREFORE, BE IT RESOLVED, that Resolution No. 02-0503, passed July 22, 2002, is hereby rescinded in its entirety.

RESOLVED FURTHER, that the Duluth City Council hereby vacates all street easements and other public easements in Blocks 1, 2, 4, 5, 6 and 7 of the plat of Greenbriar Hills except the 240 feet MP&L (Minnesota Power) utility easement running across Blocks 1 and 2, and except for the easement for MacFarlane Road.

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

Resolution 02-0682 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the city of Duluth does hereby accept public right-of-way easements legally described in Exhibit A and Exhibit B on file in the office of the city clerk as Public Document No. 02-1015-25 from A&A Development to the city, said easements being for roadway, utility and pedestrian use on property in the city of Duluth, St. Louis County.

Resolution 02-0701 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of all the streets, avenues and alleys abutting Blocks 1,2, 3 and 4, Randall's Division, legally described as: Adrain Street, the north 1/2 of LaPlace Street, that part of Bessel Avenue lying between Blocks 3 and 4, that part of Hansen Avenue lying between Blocks 1 and 2, the alley lying between Blocks 2 and 3, and the way street or avenue lying on the east side of Block 1 and the west side of Block 4; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its October 8, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the streets, avenues and alleys described above, and as more particularly described on Public Document No. 02-1015-26.

RESOLVED FURTHER, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

resolution together with a plat showing the streets, avenues and alleys to be vacated.

Resolution 02-0702 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute Mn/DOT Agreement No. 83616 with the state of Minnesota for the relocation of city utilities in conjunction with the reconstruction of Piedmont Avenue from Fourth Street to .5 miles north of Skyline Boulevard within the corporate limits of Duluth and constructed as State Project No. S.P. 6915-123; said agreement filed as Public Document No. 02-1015-27. Under the agreement the city shall contribute \$568,473.04 which shall be paid as follows: \$176,256.26 from Water Fund 0510, Object 5533; \$207,983.05 from Sewer Fund 0530, Object 5533; and \$184,233.73 from Gas Fund 0520, Object 5533.

Resolution 02-0670 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, plans and specifications have been prepared for the construction of a permanent alley in Third Street Alley from 18th Avenue East to 19th Avenue East (City Job No. 0252TR), and filed with the secretary of the special assessment board; proper notice has been sent to the benefitting property owners; the special assessment board has conducted a hearing to meet and hear any person affected by the proposed improvement or assessment; the special assessment board has submitted its report to this council pursuant to Section 45-79, Duluth City Code of 1959; and the said board, at the direction of the mayor, has furnished this council with information as required by Section 45-80 of the Duluth City Code of 1959.

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$30,000, payable from the Special Assessment Fund 0410, Agency 038, Organization 5360, Object 5530, \$28,000 at \$35 per front foot by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 02-0671 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, plans and specifications have been prepared for the construction of a permanent alley in 57th Avenue West from Cody Street to 57th Avenue West (City Job No. 0235TR), and filed with the secretary of the special assessment board; proper notice has been sent to the benefitting property owners; the special assessment board has conducted a hearing to meet and hear any person affected by the proposed improvement or assessment; the special assessment board has submitted its report to this council pursuant to Section 45-79, Duluth City

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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 \$57,470, payable from the Special Assessment Fund 0410, Agency 038, Organization 5361, Object 5530 \$37,470 at \$35 per front foot by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 02-0672 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the city of Hermantown to implement the Airport Road loop project by authorizing the city of Duluth to construct approximately 400 feet of roadway in Hermantown.

Resolution 02-0683 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute agreements with Linda Rochford and Paul Sandholm for \$6,834.50 and with Michael and Sheryl Van Scoy for \$4,108.72 in lieu of installing concrete stairs and retaining walls and sod under the Branch Street 2002 street improvement program; said agreements filed as Public Document No. 02-1015-30.

RESOLVED FURTHER, that the payments under these agreements shall come from Fund 0440, Agency 038, Org. 0202, Obj. 5530.

Resolution 02-0685 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct 260 feet of sanitary sewer and 230 feet of water main within Denney Drive beginning at the intersection of 12th Avenue and extending easterly (City Job Nos. 0286SN and 0286WA).

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

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

Resolution 02-0686 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 01-0635 to Ayres Associates, Inc., for the stabilization of the failed slope on Lincoln Park Drive, be amended to increase the amount by \$8,400 for a new total of \$28,357, payable out of Storm Water Fund 0535, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 02-0696 was unanimously adopted.
Approved October 15, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 01-0909 to Petersen Engineering, Inc., for the professional services for the ten inch steel natural gas transmission pipeline, be amended to increase the amount by \$40,184 for a new total of \$147,828, payable out of Gas Construction Bond Fund 0521, Department/Agency 500, Object 5532.

Resolution 02-0697 was unanimously adopted.
Approved October 15, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the Jamar Company be and hereby is awarded a contract for roof replacement at upper Woodland water reservoir, located at Minnesota Avenue and East Mankato Street, in accordance with specifications on its low specification bid of \$52,260, terms net 30, FOB job site, payable out of Water Construction Bond Fund 0511, Department/Agency 500, Object 5532.

Resolution 02-0698 was unanimously adopted.
Approved October 15, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct residential design streets in Northridge Estates: Northridge Drive from MacFarlane Road/Blackman Avenue northwesterly to include cul-de-sac, and Northridge Lane from Northridge Drive northeasterly to include cul-de-sac (City Job No. 0274TR); and construct public utilities (sanitary sewer, watermain, stormwater improvements and gas main) all pursuant to plans and specifications prepared by Salo Engineering and approved by the city of Duluth in order to serve all the lots in Northridge Estates.

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

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

Resolution 02-0705 was unanimously adopted.
Approved October 15, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

WHEREAS, by the Resolution of Intent numbered 02-0705, the council did request the administration to prepare plans and specifications for the construction of permanent residential design streets in Northridge Drive from MacFarlane Road/Blackman Avenue northwesterly to cul-de-sac (approximately 2,700 feet in length), and in Northridge Lane from Northridge Drive northeasterly to cul-de-sac (approximately 700 feet in length), including concrete curb and gutter, bituminous surface, stormsewers, sanitary sewers, watermain and gas main at an estimated cost of \$1,287,500, payable from the Special Assessment Fund 0410 (City Job No. 0274TR); 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 \$1,287,500, payable from the Special Assessment Fund 0410, Agency 038, Organization 5362, Object 5530; that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 02-0706 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are hereby authorized to accept grant monies (Public Document No. 02-1015-29) of up to \$44,850 from the Minnesota department of public safety, office of traffic safety, to reimburse the Duluth police department, the St. Louis County sheriff's office, and the University of Minnesota-Duluth police department for police overtime expenditures related to the safe & sober grant program and to execute any and all required grant agreements; all revenue to be deposited into General Fund 0100, Dept. 200, Org. 1620, Revenue Source 4230 and disbursed to St. Louis County and the University of Minnesota-Duluth from General Fund 0100, Dept. 200, Org. 1620.

Resolution 02-0675 was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 02-0700, by Councilor Gilbert, approving the prioritization of projects to receive 2003 low-income housing tax credits, was introduced for discussion.

Responding to council questions, Keith Hamre, community development and housing division manager, reviewed that his office has checked with Minnesota housing finance agency (MFHA) to see if the top two priority projects that the council decided on could be funded instead of just one, and that the commissioner of MHFA has stated that it is not possible based on the

number of applications before them, and because funding both of the Duluth projects will require allocation of more than half of the available funds when there are other worth while projects around the state that deserve funding.

Councilor Hogg reviewed that the MHFA is worried about a funding gap and that the city would need to guarantee funding for MHFA, which could be through a Section 108 loan guarantee, or any other source that would be available to the city.

Councilor Hogg moved to amend the resolution as follows:

(a) Add the words "and pledging loan guarantee funds" at the end of the title of the resolution;

(b) Add the following paragraph at the end of the resolution:
"BE IT FURTHER RESOLVED, that the city will utilize HUD Section 108 loan guarantee funds to cover the funding shortfall in the Village Place project," which motion was discussed.

Councilor Bergson expressed concern that the clean up of the Harbor View area is necessary and that their application has been turned down by the council three times.

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

William Burns, representing the Village Place project, reviewed that this group is confident that they can fund this project without a funding gap, or just a small modest gap, and that the resolution, as amended, will allow the city to get its top priority project funded.

Rick Ball, representing the housing and redevelopment authority (HRA), stated the HRA believes that this year the Harbor View project is uniquely positioned to be at a competitive advantage for Hope VI funds, especially if there is a commitment of low-income tax credits.

Mike Saxton, representative for the Suites of Miller Hill project, reviewed that if this project was assigned the tax credits right now, it is the only project that is financially viable because it does not need any additional financing or subsidies. He continued that he is available to assist in getting the other projects funded so that Duluth does not lose its tax credits.

Councilor Hogg reviewed that this resolution does not allocate the money but only sets the council's priorities and guarantees that the city will fill the gap on the Village Place project; but if MFHA will not accept that, then the city will go with the Harbor View project.

Mr. Hamre suggested that a possible scenario that could be presented to MFHA would be to roll all three projects into a Section 108 loan guarantee program as the city can borrow up to \$17,000,000, and that since the community development committee has been struggling with how to meet the goal of 40 percent funding for housing, it could pledge future CDBG funds to help fund the gap. He continued that these three projects would make a great showing in the application process fo Hope VI funds.

Responding to Councilor Hogg, Mr. Hamre stated that the money needed to complete all three project is approximately \$8 to \$10 million and that the city will have about five months to seek other funds before they have to commit to Section 108 money.

Councilor Hogg stated that this is a good investment because the money will not have to come out of the general fund or be raised by taxes, but will be money that is a loan against the city's future CDBG allocations whose goal is to find affordable housing in Duluth.

Councilor Stewart applauded city staff for making an impact on many people's lives by creating opportunities for low income housing.

Responding to Councilor Bergson, Mr. Hamre stated that the city will be looking for other community resources to prevent the need to take all of the money from Section 108 funds.

Councilor Hogg moved to add the following language at the end of the last sentence of his previously proposed amendment:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

“the Harbor View Phase I project and the Suites of Miller Hill project, requiring other feasible qualified funding sources to also be pursued,” which motion was seconded and unanimously carried.

Councilor Hogg’s amendment was unanimously passed.

Resolution 02-0700, as amended, was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, pursuant to Minnesota Statutes, Sections 462A.221 through 462A.225 (the act), the city of Duluth, Minnesota (the city) is a suballocator of low-income housing tax credits (LIHTCs); and

WHEREAS, the city’s 2003 allocation of LIHTCs is estimated at \$251,149; 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 2003 setting forth criteria governing the award of the city’s LIHTCs; and

WHEREAS, the city received three applications for projects requesting allocation of 2003 LIHTCs (the projects); and

WHEREAS, the applications for the projects have been scored in accordance with the plan; and

WHEREAS, the Duluth housing commission, at its September 12, 2002, meeting, recommended LIHTCs be allocated to the projects on a priority basis.

NOW, THEREFORE, BE IT RESOLVED by the city council of the city of Duluth, that the city hereby approves the Duluth housing commission’s prioritization of projects to receive 2003 low-income housing tax credits as forth below:

1st Priority Village Place at Duluth

2nd Priority Harbor View, Phase I

3rd Priority Suites of Miller Hill

BE IT FURTHER RESOLVED that the city council strongly encourages Minnesota Housing Finance Agency (MHFA) to consider supporting the city’s top two priority funding requests in order to position the city of Duluth at a competitive advantage for applying for HOPE VI funding through the Department of Housing and Urban Development.

BE IT FURTHER RESOLVED, that the city will utilize HUD, Section 108, loan guarantee funds to cover the funding shortfall in the Village Place project, the Harbor View Phase I project, and the Suites of Miller Hill project, requiring other feasible qualified funding sources to also be pursued.

Resolution 02-0700, as amended, was unanimously adopted.

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

Resolutions 02-0687 and 02-0688, by Councilor Stauber, affirming and reversing, respectively, the decision of the board of zoning appeals to allow the construction of an approximate 18,250 square foot four-story medical office building with a two level parking garage, relaxing the minimum rear yard setback from 25 to zero feet, the maximum height allowed from 45 to 58 feet and a reduction of the required parking spaces from 365 to 119 spaces on site on property located at approximately 1001 East Superior Street (A&L Development), were introduced for discussion.

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

Richard Gurske, representing several contractors and unions in the Duluth area; and Mark Pilon, representing the developer and tenant of the project; urged support of Resolution 02-0687,

which will allow the construction of the medical treatment center, which is necessary for the continued growth of St. Luke's Hospital and also meets the required criteria for the definition of hardship.

Councilor Gilbert stated that he will abstain from voting on either resolution.

Resolution 02-0687 was adopted as follows:

BY COUNCILOR STAUBER

WHEREAS, A&L Development applied to the board of zoning appeals for a variance to construct an approximate 18,250 square feet four-story medical office building with basement level parking and a two level parking garage relaxing the minimum rear yard setback from 25 feet to zero feet and the maximum height allowed from 45 feet to 58 feet and a reduction of required parking spaces from 365 spaces to 119 on site on property located at approximately 1001 East Superior Street and legally described as Lots 1 through 10 and west 1/2 of Lot 11, Block 16, Portland Division; and

WHEREAS, the board of zoning appeals granted the variance to reduce the front yard setback, the maximum height allowed and the required on-site parking requirements with the stipulations that the project receive approval of a water management variance for impervious surface and a vacation of air rights for the proposed skywalk, because they found that a hardship to the property existed which constituted special circumstances or conditions applying to the building or land in question which was peculiar to such property and did not apply generally to other land or buildings in the vicinity, and because it was necessary for the preservation and enjoyment of a substantial property right and not merely a convenience of the applicant; and

WHEREAS, Steven J. Seiler of Johnson, Killen & Seiler has appealed the aforesaid decision to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and agrees with the decision of the board of zoning appeals that the granting of a variance to allow the construction of an approximate 18,250 square feet four-story medical office building with basement level parking and a two level parking garage, as per plans dated 8/20/02 drawn by Damberg, Scott, Gerzina, Wagner Architects, relaxing the minimum rear yard setback from 25 feet to zero feet, and the maximum height allowed from 45 feet to 58 feet and a reduction of required parking spaces from 365 spaces to 119 on site with the stipulation that the project receive approval of a water management variance for impervious surface and a vacation of air rights for the proposed skywalk is appropriate in this case; and

WHEREAS, by reason of exceptional topographic conditions and other extraordinary and exceptional situations and conditions of such piece of property, the strict application of the terms of this chapter would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property in that the building on this site, if limited to the maximum permissible height established by code, would be lower than other buildings into which it must be connected by skywalk in order to be functional and viable, rendering it impractical and unworkable on the site, the site is insufficient in size to be able to allow the building to meet the parking requirements imposed on it by code but the parking needs of the building are more than adequately accommodated by adjacent buildings operationally related to the subject building, and the size of the site is already minimal for the needed development and the imposition of rear yard setbacks not observed by other buildings in the area would make the use of the site impractical; and

WHEREAS, the development at this location would be advantageous to the community for access to public transportation; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

WHEREAS, the adjacent building at 1000 East First Street received similar variances for height and setbacks for its development;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the board of zoning appeals' decision of August 27, 2002, is hereby affirmed by the city council, and the appeal is denied.

Resolution 02-0687 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Hogg, Stauber, Stewart, Stover and President Ness -- 7

Nays: None -- 0

Abstention: Councilor Gilbert -- 1

Absent: Councilor Stenberg -- 1

Approved October 15, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0688 failed upon the following vote (Public Document No. 02-1015-16).

Yeas: Councilors Atkins, Bergson, Hogg, Stauber, Stewart, Stover and President Ness -- 7

Nays: None -- 0

Abstention: Councilor Gilbert -- 1

Absent: Councilor Stenberg -- 1

- - -

Resolution 02-0676, by Councilor Stauber, vacating the alley between Blocks 15 and 20 and Huntington Street between Blocks 20 and 23, Lloyds Division of West Duluth (Lattner), was introduced for discussion.

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

Wally Pfister and Jeff Urbaniak opposed the vacation of this alley for the following reasons:

the neighborhood views the vacating of this alley as improper housing development policy because it will allow one new home owner to install a mound sewer system which will prohibit the entire site from being developed to construct potentially 64 much needed new homes; there is an underground water reservoir system in the vicinity that feeds West Duluth, which is old and leaking, that the neighborhood believes may be contaminated by construction of this proposed sewer system; a petition exists that is signed by 57 homeowners who will be directly affected by this vacation and oppose this alley vacation.

William Bastian stated that he has tried to obtain information from the city on this project and is frustrated because no one has returned his calls.

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

- - -

Resolution 02-0669, by Councilor Stauber, requesting the Charter commission to recommend adoption of an ordinance amending Section 8 and Section 31 of the City Charter to provide increased flexibility in the awarding of contracts, was introduced for discussion.

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

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR HOGG

02-047 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,385,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE

IMPROVEMENT OF THE MUNICIPAL WATER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

BY COUNCILOR HOGG

02-048 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,825,000 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 HOGG

02-049 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,425,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL GAS UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

BY COUNCILOR STAUBER

02-045 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 27, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S SUBURBAN TO M-1 MANUFACTURING, PROPERTY LOCATED SOUTH OF ARROWHEAD ROAD BETWEEN QWEST AND KINGDOM HALL (MAHONEY).

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

Ron DeGrio, representing the planning commission, stated that there is a better solution for the zoning reclassification of this property and requested that it be referred back to the planning commission so that this property and the property to the west of it can be zoned the same for future development.

Matt Mahoney, potential owner of the property, voiced frustration that the approval process has taken so long and questioned why there appears to be another delay to the process when he is trying to get the property bought and developed.

Responding to President Ness, City Attorney Brown stated that if the ordinance is amended to change the zoning classification and the reclassification is not more restrictive, the ordinance will not need another first reading.

- - -

BY COUNCILOR STAUBER

02-050 - AN ORDINANCE AUTHORIZING AGREEMENT FOR SALE AND REDEVELOPMENT OF CERTAIN PROPERTY IN LINCOLN PARK WITH JO-ED PARTNERS FOR \$24,000.

- - -

BY PRESIDENT NESS

02-046 - AN ORDINANCE CREATING A COMMISSION ON HIGHER EDUCATION; ADDING A NEW ARTICLE XXX TO CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STAUBER (INTRODUCED BY COUNCILOR STENBERG)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

02-042 (9563) - AN ORDINANCE AMENDING SECTIONS 50-1.43, 50-13 AND 50-47 OF THE DULUTH CITY CODE, 1959, AS AMENDED RELATING TO DEFINITIONS AND POWERS OF THE BOARD OF ZONING APPEALS.

Councilor Hogg stated that this ordinance is a bandaid approach to a zoning ordinance that will have to be totally reworked once the comprehensive plan is put into place.

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

Yeas: Councilors Atkins, Bergson, Gilbert, Stauber, Stewart, Stover and President Ness -- 7

Nays: Councilor Hogg -- 1

Absent: Councilor Stenberg -- 1

- - -

BY COUNCILOR STAUBER (INTRODUCED BY COUNCILOR STENBERG)

02-043 (9564) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 26 AND 27, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S SUBURBAN TO IT INDUSTRIAL TECHNOLOGY PROPERTY LOCATED NORTHEAST OF THE INTERSECTION OF HAINES AND ARROWHEAD ROADS (HOLAPPA/HARTLEY).

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

- - -

BY COUNCILOR STOVER

02-044 - AN ORDINANCE PERTAINING TO THE PLANNING COMMISSION, REQUIRING ALL PLANNING COMMISSION MEETINGS TO START AFTER 5:00 P.M., AMENDING SECTION 4 OF ORDINANCE NO. 1809.

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

Will Rhodes, speaking on behalf of the Duluth Public Policy Alliance, stated that the alliance works for open government and is in favor of this ordinance change because evening meetings are more accessible to the public, determination of what is a controversial issue and whether it should be placed on the planning commission's evening meeting agenda has not been working. He questioned how the public would know what is on the planning commission agenda when it meets during the day.

Ron DeGrio, representing the planning commission, stated the planning commission system works well now and does not feel it should be changed. He expressed frustration that this ordinance became known to the planning commission through the newspaper instead of councilors coming to the planning commission members to discuss and maybe work out some issues without having to make a change in the ordinance.

Jeff Jackson, planning commission president, stated that this proposed ordinance will be a huge impediment on the planning commission. He continued that in reviewing agenda items for their meetings, he takes a look at communications from the public to see how much interest there is on an issue and then, if he deems it necessary, he will move those issues to the 5:00 p.m. meeting to accommodate the public. Mr. Jackson also stated that day meetings work well because if they are discussing an issue and need technical advice, city staff is able to respond immediately so that the issue can be moved forward at that meeting. He continued that according to the proposed ordinance, all of the planning commission's subcommittee meetings and working sessions would have to start after 5:00 p.m., which will not work, especially for field trips when, they go out and look at the property during daylight hours.

Councilor Stover stated that there have been several times that he wanted to attend a planning commission meeting, but was unable to because they were held during the day and he was unable to leave his job to go to the meeting.

Peggy Marrin stated that by making this meeting user friendly and having it after 5:00 p.m., more people will attend and speak at the meeting.

Councilor Hogg voiced his support for this ordinance because he feels it will be better for the public, but at the same time, he does not want to cause unnecessary difficulty in the operations of the planning commission. He noted that involving the planning commission in a dialogue to answer questions that have been raised before the council makes a decision has merit.

- - -

At this time, 10:55 p.m., Councilor Stewart moved to extend the meeting to 11:15 p.m., which motion was seconded and unanimously carried.

- - -

Councilor Stewart stated that the scheduling of planning commission meetings after 5:00 p.m. will allow more people to apply to be on the commission.

Councilor Gilbert stated that part of the problem is the lack of staffing in the planning department.

Councilor Stauber voiced concern that the council is micro-managing this commission and instead should be supporting changes that are necessary to make the commission work effectively.

President Ness stated tabling this ordinance to have a dialogue with the planning commission is the proper way to proceed instead of imposing the council's desire on the commission.

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

- - -

The meeting was adjourned at 11:00 p.m.

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

- - -

ORDINANCE NO. 9563

BY COUNCILOR STAUBER (introduced by Councilor Stenberg):

AN ORDINANCE AMENDING SECTIONS 50-1.43, 50-13 AND 50-47
OF THE DULUTH CITY CODE, 1959, AS AMENDED RELATING TO
DEFINITIONS AND POWERS OF THE BOARD OF ZONING
APPEALS.

The city of Duluth does ordain:

Section 1. That Section 50-1.43 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-1.43.Lot.

Land occupied or intended for occupancy by a use permitted in this Chapter, including one main building together with its accessory buildings, and the yards and parking spaces required herein, and having its principal frontage upon a street or upon an officially approved place. For the purposes of this Chapter, the term "lot" may include two or more lots of record which are contiguous or separated only by

a public easement not exceeding 25 feet in width, are owned by the same owner and where none of the parcels can be severed or legally sold, conveyed or used without the other parcels by virtues of a legally binding agreement which runs with the land and is recorded in the office of the St. Louis County recorder's office. If at any time any parcel which had been recognized as part of any lot by reason of such proximity, ownership and agreement are severed, legally sold, conveyed or used separately from the other parcel or parcels making up said lot, the parcel so severed, legally sold, conveyed or used shall henceforth not be considered part of said lot, any uses relying on its status as part of said lot shall become nonconforming and the provision of Section 50-13 shall not be applicable to any such use.

Section 2. That Section 50-13 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-13. Nonconforming uses--buildings.

(a) Any lawful use of a building existing on July 14, 1958, may be continued, even though such use does not conform to the provisions of this Chapter. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use. The nonconforming use of a building may be extended throughout those parts thereof which were manifestly arranged or designed for such use on July 14, 1958;

(b) Whenever the use of a building shall become nonconforming through a change in this Chapter or in the district boundaries, such use may be continued and, if no structural alterations are made, may be changed to another nonconforming use of the same or of a more restricted classification;

(c) A nonconforming use of a building or portion thereof which is hereafter discontinued for a continuous period of two years shall not again be used, except in conformity with the regulations of the district in which such building is located;

(d) No building or premises existing on July 14, 1958, devoted to a use not permitted by this Chapter in the district in which such building or premises is located, shall be enlarged, extended, reconstructed or structurally altered, unless such use is changed to a use permitted in the district in which such building or premises is located;

(e) A nonconforming building which has been damaged from any cause or has deteriorated to the extent of more than 60 percent of its reproduction value at the time of damage shall not be restored, except in conformity with the regulations of the district in which it is located, or as provided in Article VI of this Chapter. For the purposes of this paragraph and subparagraph 2 of paragraph (c) of Section 50-47 below, a building or component of a building shall be deemed to have deteriorated when its function has been so impaired by natural forces including but not limited to weathering or decay that it needs to be replaced to restore its functionality.

When damaged by less than 60 percent of its reproduction value, a nonconforming building may be repaired or reconstructed and used as before the

time of damage; provided, that such repairs or reconstruction are completed within one year of the date of such damage;

(f) A nonconforming use in violation of the provisions of the zoning ordinance which this Chapter supersedes shall not be validated by the adoption of this Chapter, nor shall this Chapter validate any temporary use beyond the expiration date of the temporary permit.

Section 3. That Section 50-47 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-47. Powers generally.

Subject to the provisions of Section 50-49, the board of zoning appeals shall have the following powers:

(a) To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision or refusal made by the building inspector in the carrying out of enforcement of any provisions of this Chapter;

(b) Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of the terms of this Chapter would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property, to authorize upon an appeal relating to such property a variance from such strict application so as to relieve such difficulties or hardship; provided, that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and this Code; provided, that no variance shall be granted unless the board finds that all of the following conditions exist:

(1) The special circumstances or conditions applying to the building or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity;

(2) The granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant;

(3) The authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city;

(c) Upon appeal, the board is hereby empowered to permit the following exceptions, regardless of the limitations established by paragraph (b) above:

(1) The extension of an existing or proposed building for a distance not to exceed 50 feet into a more restricted district under such conditions as will safeguard the character of the more restricted district;

(2) The reconstruction of a nonconforming building which has been damaged from any cause or has deteriorated, as defined in paragraph (e) of Section 50-13 above, to the extent of more than 60 percent of its reproduction value, where

the board shall find that it is necessary for the preservation and enjoyment of a substantial property right and is not detrimental to the public welfare of the city.

(3) Variances to lot sizes in unsewered area shall not be granted without presentation of a permit or letter of intent to issue a permit for on site sewerage treatment from the St. Louis County health department;

(4) To interpret the provisions of this Chapter where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts, which map is made a part of this Chapter;

(5) To permit parking lots or parking structures on land, not more than 300 feet from the boundary of any commercial or industrial district, under such conditions as will protect the character of surrounding property. Notwithstanding the terms of this Section, no variances shall be granted from this Section for parking lots or parking structures for land uses within the medical center district or medical center link district;

(6) To vary the parking and loading regulations of this Chapter whenever the character or use of a building is such as to make unnecessary the full provision of parking or loading facilities or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience;

(7) The erection, reconstruction or structural alteration of a building for residential purposes in the M-1 and M-2 manufacturing districts;

(8) Other uses of the same character as those listed in a particular district. Any use so determined shall be regarded as a listed use;

(9) The extraction, removal or the processing of sand, clay, loam, gravel, rock, top soil or fill materials (exclusive of sod) for commercial purposes, except as necessary incident to any construction on the premises, in any district;

(9.1) No person, firm, corporation or public body shall extract, remove or process said earth materials except as necessary incident to actual, immediate or continuing construction on the premises without first obtaining a written permit therefor from the building inspector upon written order of the board of zoning appeals. For this purpose such applicant shall file with the building inspector a verified application, in triplicate, for every permit, containing all information required on the building inspector's form, including a detailed statement of the purpose and extent of the proposed work, together with a plan or map fully dimensioned and extending beyond the proposed work area and explaining and showing: The area to be excavated; existing contour lines on the premises and proposed contour lines which will result from the intended excavation or removal, at a scale not more than 100 feet to the inch, with a contour interval not to exceed five feet; existing and proposed drainage on the premises; the names and addresses of owners of abutting property; all street and public easements; proposed routes of access to public highways from the area to be excavated; and location, size and use of all buildings existing within the mapped area;

(9.2) A certificate of the city engineer shall be filed with the application, certifying that such proposed extraction, removal or processing, and the proposed finished grades on said property, as shown on said map, will not endanger the function of any public highway or utility easement of the city. As an alternate to the above the city engineer may qualify his statement by proposing conditions and

safeguards which in his opinion will be necessary to protect adjoining property, both city and privately owned;

(9.3) The proposed excavation, removal or processing shall not result in the creation of any hazardous sharp pits, steep banks, soil erosion, drainage or sewerage problems or other conditions which would ultimately impair the use of the property in accordance with the general purpose and intent of the zoning regulations for that district;

(9.4) Finished slopes in the excavated area shall not exceed one foot vertical rise to two feet of run except in the case of dams or swimming pools, or where specifically approved in writing by the board of zoning appeals; no stagnant water shall be permitted to result from such removal, excavation or processing;

(9.5) No earthmoving, processing or excavating equipment or trucks which are inoperative for more than 30 days shall be stored in the open on the property included in the permit;

(9.6) The board, upon investigation of the permit application, may approve or deny the permit, or require it to be amended. The board may determine the period for which the permit may be granted, and may limit the hours of operation. It may also include in the permit requirements for installation of fencing and dust palliatives where deemed necessary for safety and neighborhood protection;

(9.7) Upon completion of the excavation, processing or removal of earth materials in accordance with the approved proposed contour lines, the premises shall be cleared of all debris and, unless the excavated area is beneath water, a top layer of soil which will sustain the growth of turf shall be spread over the premises and shall be seeded with perennial rye or grasses;

(9.8) All excavation, removal and processing of earth materials, and the extent and limits thereof, together with operational time limits, shall be in accordance with the written permit, the application, plan or map and conditions approved by the board of zoning appeals. As a guarantee of performance, and to insure that the property is and shall be left in the final condition desired, and as a prerequisite to issuing the permit, the applicant, except when it is a division or agency of government, shall give proof that all taxes and assessments against the property which are due and payable have been paid, and, shall execute and file with the building inspector a corporate surety bond subject to approval by the city attorney, such bond to be executed by a corporate surety authorized to transact business in the state of Minnesota as a corporate surety, in an amount to be fixed by the board of zoning appeals, but not less than \$2,000, conditioned upon the due and faithful performance by the principal named in such surety bond of all conditions contained in the permit, and to indemnify the city of Duluth for any damage resulting from issuance of this permit. In determining the amount of such bond, the board shall consider the nature and extent of the proposed extraction, removal or processing, and fix an amount which will, as nearly as can be estimated, cover the costs of performing the conditions of the permit in the event of default by the permittee, at which time such bond, or cash deposit in lieu of such bond, shall be forfeited to the city of Duluth. Such bond shall remain in full force and effect until a certificate of completion has been issued by the building inspector, certifying to the fact that all provisions and conditions of the permit have been fully complied with.

Application for such certificate shall be made in writing on forms provided by the city, provided that when the applicant is not the owner of the premises that said owner shall, with the application, file his written consent to the work to be done on his premises and to the issuance of the permit for said proposed work. In lieu of such bond, a cash deposit or deposit of negotiable securities may be accepted by the city;

(10) Permit the conversion of a dwelling into a three-family dwelling in an R-2 two-family residential district; provided the following conditions exist: That the floor area of the dwelling other than basement or attic space not used for living quarters or of garages or utility rooms totals not less than 2,200 square feet; that such minimum floor space was constructed under a building permit issued before April 1, 1942; that the lot contains not less than 10,000 square feet; that three-family occupancy will not tend to change the character of the surrounding property or make it less valuable for the purposes for which it was zoned or reduce neighborhood property values and that only changes approved by the board shall be made in the exterior appearance of the building which shall not include opening of an additional front entrance.

Section 4. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 28, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Stauber, Stewart, Stover and President Ness -- 7

Nays: Councilor Hogg -- 1

Absent: Councilor Stenberg -- 1

Passed October 15, 2002
Approved October 15, 2002
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

ORDINANCE NO. 9564

BY COUNCILOR STAUBER (introduced by Councilor Stenberg):

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 26 AND 27 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S - SUBURBAN TO IT - INDUSTRIAL TECHNOLOGY PROPERTY LOCATED NORTHEAST OF THE INTERSECTION OF HAINES AND ARROWHEAD ROADS (HOLAPPA/HARTLEY).

The city of Duluth does ordain:

Section 1. That Plate Nos. 26 and 27 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(MAPS)

(see pages 506 and 507)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 24, 2002)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stewart, Stover and President
Ness -- 8

Nays: None -- 0

Absent: Councilor Stenberg --1

- - -

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 15, 2002
Approved October 15, 2002
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 28, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-1028-01 Greg Batinich and Cheryl Batinich Goldberg, by Robert C. Pearson, attorney, submitting petition to vacate an easement for public utilities over the easterly five feet of Lots 1 through 14, Block 1, and the westerly five feet of Lots 19 through 32, Block 1, Farrell and Culver's Addition to Kenwood. -- Assessor

02-1028-02 Dan Stocke submitting petition to reclassify from R-1-b to R-3 Auditors Plat 24, Lots 4 through 7. -- Assessor

02-1028-16 Richard Bates submitting letter regarding appeal to reverse the decision of the board of zoning appeals to deny a variance to reduce the minimum front yard setback from 60 feet to 32 feet and the minimum side yard setback from 25 feet to 20 feet for the construction of a 26 foot by 42 foot detached garage on property located at 1805 Norton Road (Semaan) (02-0740R and 02-0741R). -- Received

02-1028-04 The following submitting communications regarding the proposed requirement that planning commission meetings be held after 5:00 p.m. (02-044-O): (a) Duluth Public-Policy Alliance; (b) Kristine Osbakken; (c) Andy Peterson; (d) Joel Sipress. -- Received

- - -

REPORTS OF OFFICERS

02-1028-05 Assessor submitting letters of sufficiency of petitions to vacate:

(a) Alley in Block 7, Rearrangement of Notrtons Bayview Outlots of Duluth;

(b) 64th Avenue West extending north from Redrugh Street to a northern boundary on the abandoned BNSF right-of-way. -- Received

02-1028-06 Engineering division submitting monthly project status report of October 1, 2002. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-1028-07 Charter commission minutes of July 10, 2002, meeting. -- Received

02-1028-08 Duluth airport authority minutes of September 17, 2002, meeting. -- Received

02-1028-09 Duluth housing commission minutes of September 12, 2002, meeting. -- Received

02-1028-10 Duluth/North Shore Sanitary District minutes of October 1, 2002, meeting. -- Received

02-1028-11 Duluth transit authority income and financial statements for August, 2002. -- Received

02-1028-03 Duluth transit authority minutes of August 28, 2002, meeting. -- Received

02-1028-12 Heritage preservation commission minutes of: (a) July 23; (b) August 27, 2002, meetings. -- Received

02-1028-13 Parking commission minutes of September 10, 2002, meeting. -- Received

02-1028-14 Planning commission minutes of: (a) July 24; (b) August 28, 2002, meetings. -- Received

02-1028-15 Special assessment board minutes of September 10, 2002, meeting. --
Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Kay L. Lewis commented on: safety on buses; bus service at Stone Ridge and Super One; new housing developments; St. Mary's Hospital expansion; Skyline Drive road improvements; Hope VI; Miller Hill developments; handicapped access features for more citizens and fire safety regarding downed brush.

- - -

Peggy Marrin commented on the accountability and tough questions that need to be addressed on the issue of the Great Lakes Aquarium.

Dale Swapinski reviewed the contents of his communication (Public Document No. 02-1028-16) regarding the issue of the Great Lake Aquarium.

- - -

RESOLUTIONS TABLED

Councilor Stenberg moved to remove Resolution 02-0606, amending Resolution 89-0323, as amended by Resolution 98-0949, establishing the Duluth economic development authority to eliminate the requirement that a majority of the commissioners present at a meeting must be city councilors for action to be taken, from the table, which motion was seconded and unanimously carried.

Councilor Stenberg moved to amend the resolution by changing the word "deleting" in the third sentence with the word "amending"; and deleting the words "in its entirety" and adding the words "to read as follows:" at the end of the sentence and adding the following paragraph:

"4.a. If an action is taken by DEDA at a meeting in which council members do not constitute a majority of commissioners present and voting, then that action is not final and cannot be implemented unless and until it is approved by resolution of the Duluth City Council duly passed as set out in the City Charter,"
which motion was seconded and discussed.

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

Kay L. Lewis expressed concern that some sort of control is needed over DEDA.

Peggy Marrin felt that DEDA should be dissolved and the city council should become the DEDA.

Councilor Stenberg's amendment carried upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stenberg, Stewart, Stover and President Ness -- 8

Nays: Councilor Stauber -- 1

Resolution 02-0606, as amended, was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that Resolution 89-0323 of the city of Duluth, adopted on April 24, 1989, as amended by Resolution 98-0949, adopted on December 7, 1998, is hereby amended by amending paragraph 4.a to read as follows:

4.a. If an action is taken by DEDA at a meeting in which council members do not constitute a majority of commissioners present and voting, then that action is not final and cannot be implemented unless and until it is approved by resolution of the Duluth City Council duly

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

passed as set out in the City Charter.

Resolution 02-0606, as amended, was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

At this time, 7:30 p.m., President Ness recessed the regular order of business and announced that the public hearing regarding the Bayfront Festival Park master plan would begin.

Mike Conlan, director of planning and development, and Steve Durant from URS gave a presentation on the plan (Public Document No. 02-1028-17).

The following individuals spoke at the public hearing: Jill Jacoby; Jim Fetser; Professor R. E. Powless; Jean Wiseheart; Lyle Winters; Kay L. Lewis; Jim Miller; Peggy Marrin; Laura Schacht, representing the Junior League; Lynn VanDervort; Dick Haney; Clayton Oslund; Don Nelson; Jim Johnson; Candice Richards; Peter Dahl; Iver Bogen; Bob Krumwiede, president of Bayfront Visions; and Glenn Kreag.

The following issues were presented: this plan lacks information that the public can really get excited about; the plan does not have consensus; there is no reason to rush to construct this project; citizen input should be considered further, especially with the present lack of funding; the plan ignores input from the mayor's task force for the Bayfront area; feasibility of the plan needs to be addressed first; there is a need to resolve aquarium issues first; there is support for President Ness's proposed amendment; the Marshal sisters donated a large portion of this land and envisioned the area as an extended green space; the planned green space needs to be a world class attraction free from hotels and condominiums; concern was expressed about proposed construction of condominiums on the site; there are plenty of areas Downtown where hotels can be built, instead of at Bayfront; this area does not need to be another Canal Park with retail shops and restaurants; there is support for the living water garden; coastal grant funding is available for a living water garden; the cost for the botanical garden that is being recommended will be more like \$15 million versus the \$30 million that has been quoted; the minimum workable size needed for an adequate botanical garden is approximately seven acres; more area west of slip number three should be allocated for the botanical garden; the location that is proposed for the botanical garden is not the preferred site; there is a need to develop aspects that will produce revenue first; charter boat owners need long term agreements and parking facilities near their docking facilities; aspects associated with the lake is the number one reason that tourists come to Duluth; there is concern about funding and location of a visitors' center; that a pedestrian walkway could be located under the freeway; more area needs to be devoted to the youth year round; consideration was not given to an enclosed aquatic center/multi sports arena; the Junior League supports improvements and a long term replacement plan for Playfront Park; the Bayfront area needs to have better access and exits to and from Downtown including a skywalk linking this area to the Downtown; the LaFarge facility needs to be relocated; concern was expressed about existing odorous industrial facilities that will not be compatible with the planned attractions and the city needs to insure that agreements for development contracts state that third party contracts will not be allowed.

At this time, 9:45 p.m., President Ness closed the public hearing and announced that the regular order of business would resume.

- - -

Councilor Stenberg moved to remove Resolution 02-0655, adopting the Bayfront master plan as a guideline for the future redevelopment of the Bayfront area, from the table, which motion was seconded and carried upon a unanimous vote.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Councilor Gilbert moved to separate the resolution to address and approve the living water garden aspect separately, which motion was seconded and unanimously carried.

Resolution 02-0655(b), adopting the living water garden and grant securement portion of the Bayfront master plan as a guideline for the future redevelopment of the Bayfront area, was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, the development of the Bayfront area of the Duluth waterfront, a site which represents an opportunity both for private reinvestment in and public amenities for this community, has been the subject of planning studies since 1972; and

WHEREAS, in July, 2000, a mayor's Bayfront development task force recommended a program of multi-use development for the Bayfront property owned by the city of Duluth and the Duluth economic development authority; and

WHEREAS, in July, 2000, the planning and design group of URS Consultants was engaged to further develop and refine the recommendations of the mayor's task force and prepare the long range land use plan for the 25 acre Bayfront site; and

WHEREAS, during the fall of 2001 and the winter of 2002, an overall development plan was drafted and presented to stakeholder groups and to the public at large at four major public engagement events; and

WHEREAS, in March of 2002 the draft plan was modified and thereafter endorsed by 80 percent of the participants at the final community planning session, which modified plan is hereinafter referred to as the Bayfront master plan; and

WHEREAS, the Bayfront master plan has received the endorsement of the stakeholder groups, the unanimous support of the parks commission and a public review before the city council.

NOW, THEREFORE, BE IT RESOLVED, that the living water garden and grant securement portion of the Bayfront master plan, a copy of which is on file in the office of the city clerk as Public Document No. 02-1028-17, is hereby adopted as the city's plan to generally guide the future development of the 25 acre Bayfront site.

FURTHER RESOLVED, that the city administration is encouraged to seek funding for the implementation of this plan, including the investigation of contaminated sites, the planning of Lakewalk and public access improvements, the expansion of the Bayfront Festival Park and the improvement of seawall and slip faces to accommodate marine vessel usage.

Resolution 02-0655(b) was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

Councilor Gilbert moved to table Resolution 02-0655(a), adopting the Bayfront master plan, except the living water garden and grant securement portion, as a guideline for future redevelopment of the Bayfront area, which motion was seconded and unanimously carried.

- - -

Councilor Stenberg moved to remove Resolution 02-0676, vacating the alley between Blocks 15 and 20 and Huntington Street between Blocks 20 and 23, Lloyds Division of West Duluth (Lattner), from the table, which motion was seconded and unanimously carried.

Councilor Gilbert expressed his opposition to the resolution because the applicant is not going to live there, that he purchased the land knowing that it was not appropriately zoned for the purpose intended and that it blocks the possible expansion of that area in the future.

Resolution 02-0676 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the alley between Blocks 15 and 20 and Huntington Street between Blocks 20 and 23, both lying south of Highland Street between 63rd and 62nd avenues west, legally described as: alley adjoining Blocks 15 and 20 and Huntington Street adjoining Blocks 20 and 23, all in Lloyds Division of West 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 the vacation petition at its September 25, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the alley and street described above and as more particularly described on Public Document No. 02-1028-18.

RESOLVED FURTHER, that the full right-of-way of Huntington Street, as described above, be retained as a utility easement.

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

Resolution 02-0676 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following off sale nonintoxicating malt liquor license for the period ending April 30, 2003, subject to departmental approvals and the payment of sales and property taxes:

Curtis Convenience Stores, Inc. (4th Street Food-N-Fuel), 602 East Fourth Street, with John F. Curtis, 75 percent stockholder, and James W. Curtis, 25 percent stockholder, transferred from P & E Investments, Inc. (Fourth Street Spur), same address.

Resolution 02-0707 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license and approves the issuance of the following on sale wine license for the periods ending April 30, 2002, and August 31, 2002, respectively, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

of the liquor control commissioner:

Kingston, Inc. (My Buddy's Place), 220 West Superior Street, with Allan Yee, president and 500 percent stockholder, Amy Yee, secretary and 250 percent stockholder, and Bruce Yee, vice president and 250 percent stockholder.

Resolution 02-0708 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the city council of the city of Duluth hereby approves the following transfer of the on sale intoxicating liquor license, for the period beginning January 1, 2003, and ending August 31, 2003, subject to departmental approvals and the payment of sales and property taxes:

Mitch's Inc. (Mitch's Bar & Grill), 2113 West Superior Street, with Mark Mitchell, 100 percent stockholder, transferred from MJM Restaurant Management (Mitch's Bar & Grill), same address.

Resolution 02-0709 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following off sale intoxicating liquor license for the period ending August 31, 2003, subject to departmental approvals, the payment of sales and property taxes and further subject to approval of the liquor control commissioner:

DAC, LLC (Good Times Liquor & Tobacco Shop), 2301-03 Woodland Avenue, transferred from DAC, LLC (Good Times Liquor & Tobacco Shop), 32 West First Street, with Dean A. Cox, sole owner.

Resolution 02-0710 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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 renewal of said license; and

WHEREAS, the Duluth City Council has no objection to the renewal 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 renewing a license to conduct the business of a currency exchange at 339 East Central Entrance to Pawn America Minnesota, LLC.

Resolution 02-0716 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

WHEREAS, Cash Station LLC, dba Money Xchange, 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 renewal of said license; and

WHEREAS, the Duluth City Council has no objection to the renewal 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 renewing a license to conduct the business of a currency exchange at 101 East Superior Street to Cash Station LLC, dba Money Xchange.

Resolution 02-0717 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Northland Constructors of Duluth, LLC, be and hereby is awarded a contract for the Arlington soccer complex parking expansion for the city architect division in accordance with specifications on its low specification bid of \$65,900, terms net 30, FOB job site, payable out of Capital Improvements Fund 0450, Dept./Agency 015, Organization 2002, Object C201.

Resolution 02-0724 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, the Greater Twin Cities Area MDA has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle) and St. Margaret Mary Church has applied to the Minnesota gambling control board for a lawful gambling exemption (bingo); and

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Greater Twin Cities Area MDA (raffle) and St. Margaret Mary Church (bingo) 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 02-0731 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointment by Mayor Doty of RC Boheim (environmental) to the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

environmental advisory council for a term expiring January 5, 2005, replacing Kenneth Norenberg who resigned, is confirmed.

Resolution 02-0711 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointment by Mayor Doty of James F. Yeager to the sister city commission for a term expiring March 30, 2004, replacing Judith Oleson who resigned, is confirmed.

Resolution 02-0712 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointments to the parks and recreation commission of the following by Mayor Doty are confirmed:

Elizabeth M. Mackay (District 5) for a term expiring February 13, 2005, replacing William J. Bird.

Luke W. Sydow (District 6) for a term expiring February 13, 2003, replacing Bruce Kelii, who resigned.

Resolution 02-0713 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, by the governing body of the city of Duluth, St. Louis County, Minnesota (the municipality), as follows:

Section 1. Recitals.

1.01 The city of Duluth, the town of Duluth and the town of Lakewood, all in St. Louis County, Minnesota, in 1999, submitted a petition to the Minnesota pollution control agency (the MPCA) requesting creation of the Duluth/North Shore Sanitary District (the sanitary district) pursuant to Minnesota Statutes, Sections 115.18 through 115.37 (the act). (The city of Duluth, the town of Duluth and the town of Lakewood are herein referred to collectively as the municipalities.)

1.02 On January 25, 2000, the MPCA issued an order approving creation of the sanitary district (the order). The order was published in the State Register on January 31, 2000.

1.03 On March 1, 2000, the time for appeal of the order having expired, a certified copy of the order was duly filed with the Minnesota secretary of state, and creation of the sanitary district was thereupon deemed complete under the act.

1.04 The act requires that the municipalities elect a board of managers for the sanitary district (the board of managers) as soon as practicable after creation of the sanitary district.

1.05 Pursuant to Section 115.23, Subdivision 7 of the act, the municipalities may elect a board member or members by resolutions adopted by all of them separately, concurring in the election of the same person or persons.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Section 2. Findings. It is in the best interests of the municipalities and of the sanitary district that the following persons, each of whom is a registered voter residing in the area of the sanitary district, be nominated for election to the board of managers for the terms indicated:

(a) Scott Smith of the municipality, whose term shall expire on the first business day of January, 2006;

(b) Orlando G. (Lars) Fladmark of the town of Duluth, whose term shall expire on the first business day of January, 2006.

Section 3. Election of board of managers. Election of the above named persons to the board of managers of the sanitary district is hereby approved and such persons are hereby elected for the terms indicated.

Section 4. Authorization and direction to clerk. Upon receipt of concurring resolutions from the town of Duluth and the town of Lakewood, the clerk is directed to certify the results of this election to the secretary of the MPCA and to the auditor of St. Louis County and make and transmit to each board member elected a certificate of the board member's election.

Resolution 02-0714 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into a master subordination agreement and estoppel certificate agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 02-1028-19, with the Minnesota housing finance agency (MHFA).

Resolution 02-0720 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 1998 and 1999 CDBG accounts; and

WHEREAS, the community development committee (CD committee) for the CDBG program approved the programs.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund transfers in the Federal Program Fund 262 - 1998 and 1999 HUD-funded community development accounts as set forth below:

Project #	Project	Budget amount	New amount	Amount of increase or decrease
1998 CDBG transfers				
6118	Lower Chester Rec Center	\$85,000	\$95,268	+\$10,268

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Project #	Project	Budget amount	New amount	Amount of increase or decrease
1999 CDBG transfers				
6209	Lower Chester Rec Center	\$61,318	\$51,801	-\$9,517
6244	Contingency	\$1,282	\$531	-\$751

Resolution 02-0727 was unanimously adopted.
 Approved October 28, 2002
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2002 HOME accounts; and
 WHEREAS, the community development committee (CD committee) for the HOME investment partnerships program established the following housing programs.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund transfer in the Federal Program Fund 260 - 2002 HUD-funded community development account as set forth below:

Project #	Project	Budget amount	New amount	Amount of increase or decrease
2002 HOME transfers				
2661 h003	Duluth property rehabilitation	\$283,000	\$316,885	+\$33,885

Resolution 02-0728 was unanimously adopted.
 Approved October 28, 2002
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and LHB Engineers and Architects in the amount of \$38,187, as approved by the DEDA board at its meeting of October 15, 2002, pursuant to DEDA Resolution No. 02D-56, a copy of which is on file in the office of the city clerk as Public Document No. 02-1028-20, is hereby approved.

Resolution 02-0718 was unanimously adopted.
 Approved October 28, 2002
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and Carl Walker, Inc., in the amount of \$37,396, as approved by the DEDA board at its meeting of October 15, 2002, pursuant to DEDA Resolution

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

No. 02D-57, a copy of which is on file in the office of the city clerk as Public Document No. 02-1028-21, is hereby approved.

Resolution 02-0719 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are authorized to enter into an agreement with the state of Minnesota department of administration to sublease office space in the Minnesota Workforce Center - Duluth, located on the second floor of the Government Services Center, 320 West Second Street. Lease period runs from September 1, 2002, through June 30, 2003. Costs are not to exceed \$17,733, payable from Fund 0268.

FURTHER RESOLVED, a copy of this agreement shall be on file in the city clerks office as Public Document No. 02-1028-25.

Resolution 02-0668 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

WHEREAS, League of Minnesota Cities Insurance Trust (LMCIT) provides workers' compensation and other coverages to member cities; and

WHEREAS, LMCIT will, upon request of the city, extend coverages to a private nonprofit organization which is an instrumentality of the city; and

WHEREAS, the Duluth Steam Cooperative is an instrumentality of the city of Duluth, responsible for managing the city's steam utility on behalf of the city; and

WHEREAS, the Duluth Steam Cooperative Association wishes to participate in LMCIT's workers' compensation program.

BE IT RESOLVED, that by the city council of the city of Duluth that the city authorizes the participation of the Duluth Steam Cooperative Association in LMCIT.

BE IT FURTHER RESOLVED, that the city of Duluth agrees to be secondarily liable to LMCIT for any premiums, assessments or other amounts for which the Duluth Steam Cooperative Association may become liable to LMCIT, as a member of LMCIT, that is participating in the workers' compensation program.

Resolution 02-0715 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to pay to Wayne L. Heyesen the sum of \$12,624.80 in full and final settlement of the claim which arose out of blockage in the municipal sanitary sewer; payment to be made from Self Insurance Fund 0610.

Resolution 02-0663 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to pay to Robert and Catherine

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Hewitt the sum of \$13,270.15 in full and final settlement of the claim which arose out of a blockage in the municipal sanitary sewer; payment to be made from Self Insurance Fund 0610.

Resolution 02-0693 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that pursuant to Section 61(b) of the Home Rule Charter of the City of Duluth, the city council hereby orders the improvement, to city of Duluth standards, of those streets, avenues and parkways set forth in Public Document No. 02-1028-22 on file with the office of the city clerk; that the costs of said improvement estimated at \$270,000 shall be paid from the Street Improvement Fund 0440 and that one-fourth or less of said costs be levied against the property specifically benefitted by said improvements.

FURTHER RESOLVED, that the engineering staff shall meet and confer with interested members of each neighborhood involved in the program to gather public input and address public concerns involving various street design elements including but not limited to street width, boulevard design and width, tree removal and replacement, driveways and traffic patterns.

Resolution 02-0722 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide improvement of year 2003 street improvement project of UMD/Lower Chester III; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for the design and construction, survey and inspection phases; and

WHEREAS, L.H.B. Architects and Engineers has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with L.H.B. Engineers and Architects to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$235,260, will be payable from the Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0306, Object 5530.

Resolution 02-0723 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires testing and monitoring services; and

WHEREAS, the city desires to hire a consulting firm to provide the services required to provide materials, soils and environmental testing and monitoring for the new public works and utilities Garfield facility; and

WHEREAS, Twin Ports Testing, Inc., has submitted a proposal for the testing and monitoring services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

to enter into an agreement with Twin Ports Testing, Inc., to provide the city with such testing and monitoring services.

BE IT FURTHER RESOLVED, that the cost of said testing and monitoring services, total estimated at \$36,380, will be payable from the Public Utility Bond Construction Fund 0522, Dept./Agency 500, Object 5532.

Resolution 02-0725 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that United Piping, Inc., be and hereby is awarded a contract for construction of 16 inch high pressure gas main and related work under I-35 on lower Michigan Street between Garfield Avenue and 17-1/2 Avenue West, under I-35 bridge, under BNSF railroad tracks, and under Garfield Avenue bridge to Railroad Street for the engineering division in accordance with specifications on its low specification bid of \$164,575, terms net 30, FOB job site, payable out of Gas Fund 0520, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 02-0729 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to have a traffic study and report completed; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for the traffic analysis on Arrowhead Road between Arlington Avenue and Kenwood Avenue; and

WHEREAS, Short Elliott 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 Elliott Hendrickson, Inc., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$11,500, will be payable from the Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2118, Object 5303. To be reimbursed from the Municipal State Aid (MSA).

Resolution 02-0732 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILORS HOGG AND STEWART:

WHEREAS, the establishment of the Duluth economic development authority was authorized by resolution of the Duluth City Council in 1989; and

WHEREAS, the structure and rules for DEDA operation have been modified by the city council several times since 1989 in response to community and council concerns about public openness and accountability in DEDA operational and decision making processes; and

WHEREAS, the community and council continue to have concerns about DEDA openness and accountability, as well as questions whether the purpose for which DEDA was created could be more reliably and effectively accomplished by either a total restructuring of DEDA or by

discontinuing DEDA as a separate governmental entity and accomplishing tasks now assigned to DEDA through normal city processes as was done prior to 1989.

NOW, THEREFORE, BE IT RESOLVED, that the council will undertake a public review process and public hearing on the purposes, function and role of DEDA and benefits or liabilities which may accrue to the community by the continuation of DEDA in its present, or a modified, form.

BE IT FURTHER RESOLVED, that the council requests that formal written input from the mayor, the DEDA executive director, DEDA commissioners and other interested parties be provided to the council no later than February 1, 2003, on the following specific points, along with any other information they may wish to include:

- (a) Should DEDA offices be located in city hall and staffed by city employees?
- (b) Should the majority of DEDA commissioners be elected officials or private citizens, and how should commissioners be selected?
- (c) Should the DEDA executive director serve in that position by virtue of being city planning and development director, as is presently the case, or should that person be chosen by some other means and, if so, by whom?
- (d) Is there a need for a separate unit of government to accomplish the functions of DEDA and, if so, what are the specific benefits?
- (e) What are the specific reasons, if any, why the functions of DEDA could not be successfully carried out as normal city business, as they were prior to 1989?
- (f) What rules govern, and what structures are used by, other economic development authorities in the state of Minnesota?

BE IT FURTHER RESOLVED, that the council will complete its review and public hearing process regarding DEDA no later than June 1, 2003, and that a council decision whether to restructure or discontinue DEDA will be made by July 1, 2003, and that any changes made by the council will take effect no later than January 1, 2004.

Resolution 02-0734 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0704, by Councilor Stewart, confirming the reappointments of Robert N. Johnson and Stephen Khalar to the tree commission, was introduced for discussion.

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

Louise Yount, member of the tree commission, expressed concern about the issue of poor attendance of members at commission meetings.

Barb Koth, member of the tree commission, expressed concern that because of member absences at meetings, the commission has a very difficult time conducting business because of the lack of a quorum.

Councilor Stewart moved to table the resolution to interview the proposed reappointees, which motion was seconded and unanimously carried.

- - -

Resolution 02-0737, by Councilor Gilbert, requesting a plan to guide the work of the mayor's task force/Great Lakes aquarium board to insure long term viability of aquarium without ongoing city support, was introduced for discussion.

Councilor Gilbert moved to amend the resolution as follows:

In the second line of Paragraph (c), replace the word "remain" with the word "be" and add the words "or governmental" between the words "nonprofit" and "entity," and

Add the sentence "A financial audit should be considered" at the end of Paragraph (e), which motion was seconded and unanimously carried.

Resolution 02-0737, as amended, was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, the mayor established a task force to review the operations of the Great Lakes aquarium and closed the aquarium pursuant to the operating and revenue participation agreement;

WHEREAS, it is in the best interest of the city for the mayor and city council to work together to solve the financial problems of the aquarium; and

WHEREAS, the city must act quickly, deliberately, and competently to preserve and protect the interest of GLA employees, donors, season pass holders, and the public. The city also needs to act to protect its financial well-being and bond rating.

NOW, THEREFORE, BE IT RESOLVED, that the city council requests and recommends that the mayor's task force, GLA board and decision makers under the terms of the operating and revenue participation agreement develop a plan for the aquarium to accomplish the following:

(a) Redefine its mission. The mission should be based on broad community input, as well as input by partners in the region.

(b) Treat employees fairly. The city must demonstrate that it has confidence in the employees of the Great Lakes aquarium, and it must deal fairly with employees. Their experience is essential for any turn around plan to succeed.

(c) Improve public openness. While the aquarium management under the existing contract should be with a nonprofit or governmental entity, its bylaws should be amended to subject the aquarium to the state's open meeting laws and public bidding laws with regard to contracts, including contracts for professional services. The board must adopt a strong code of ethics and conflict of interest policy.

(d) Improve appeal to moms. Ticket pricing policies, admissions policies, and activities should be redesigned to better meet the needs of parents with children.

(e) Clarify accounting practices. Accounting practices should comply with generally accepted government accounting practices, and the use of cost basis accounting, which only counts income when cash is received, rather than including promises for contributions as income. Restricted gifts should be identified as restricted income in financial statements, and other changes should be considered. A financial audit should be considered.

(f) Require promoters to honor personal guaranties before the public starts subsidizing operations. This would include the Duluth convention and visitors bureau guaranty in the amount of \$118,000 per year for the bond payments and individual personal guaranties of the U.S. Bank line of credit.

(g) Settle construction lawsuits immediately. Since the public, through DEDA, may be liable for construction cost overruns, the cases should be reviewed by the city attorney's office for advice on resolution options.

(h) Appoint a short term advisory board. An advisory board would consist of representatives from environmental organizations around the state and region, and taxpayer representatives. The purpose would be to solicit input from and gain the confidence of these groups.

(i) Explore cost sharing activities. The aquarium should immediately pursue cost sharing strategies with public and private organizations like the DECC, the zoo, and others.

(j) Explore joint ventures. GLA should explore joint ventures with for-profit organizations, nonprofit organizations, and governmental entities.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

(k) Improve city and DEDA oversight of operations. A certain amount of staff time needs to be dedicated to oversight functions.

(l) Continue to seek contributions. By improving public openness, and obtaining the involvement of environmental organizations, the aquarium should be able to broaden its base of contracts to pursue in-kind and monetary contributions.

(m) Pursue more creative out-of-town marketing. The aquarium should pursue more high tech and creative marketing strategies and consider pursuing eco-tourism as a strategy.

(n) Appoint creditors' committee. GLA and city officials should organize a creditors' committee to gain the confidence of creditors and develop options for payment.

(o) Build community excitement. By working together, we can make this work.

FURTHER, BE IT RESOLVED that the council requests the mayor to furnish to it a copy of the task force report, or status report, no later than November 3, 2002.

Resolution 02-0737, as amended, was unanimously adopted.

Approved October 28, 2002, pursuant to Section 12 of the Duluth City Charter.

- - -

Resolutions 02-0740 and 02-0741, by Councilor Stenberg, affirming and denying, respectively, the decision of the board of zoning appeals to deny a variance to reduce the minimum front yard setback from 60 feet to 32 feet and the minimum side yard setback from 25 feet to 20 feet for the construction of a 26 feet by 42 feet detached garage on property located at 1805 Norton Road (Phil and Jacquie Semaan), were introduced for discussion.

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

Phil Semaan spoke in support of Resolution 02-0741, noting that he will make sure that there will be no more water runoff than presently exists onto his neighbor's property. He stated that if necessary, he will pursue the rezoning of this property to enable him to proceed with construction of a detached garage.

Resolution 02-0740 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, Phil and Jacquie Semaan applied to the board of zoning appeals for a variance to reduce the minimum front yard setback from 60 feet to 32 feet and the minimum side yard setback from 25 feet to 20 feet for the construction of a 26 feet x 42 feet detached garage on property located at 1805 Norton Rd., and legally described as East 300 feet of West 600 feet of NW¼ of SW¼ lying South of NLY 1130 feet and the East 275 feet of West 575 feet of North 1,130 feet of NW¼ of SW¼, Section 3-50-14; and

WHEREAS, the board of zoning appeals denied the variance to reduce the front yard setback and the side yard setback because they found that no hardship to the property exists which constitute special circumstances or conditions applying to the building or land in question which was peculiar to such property and that do not apply generally to other land or buildings in the vicinity, and because it is not necessary for the preservation and enjoyment of a substantial property right and is merely a convenience to the applicant; and

WHEREAS, Phil and Jacquie Semaan have appealed the aforesaid decision to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and agrees with the decision of the board of zoning appeals that the granting of a variance to reduce the front and side yard setback requirements is not appropriate in this case.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council finds that there do not exist factors or circumstances that are unique to the subject property which cause the applicant(s), through no act of their own from enjoying a reasonable use because the site is

sufficient in size to be able to allow the proposed structure to meet the setback requirements imposed on it by the code.

BE IT FURTHER RESOLVED, that the board of zoning appeals' decision of September 22, 2002, is hereby affirmed by the city council, and the appeal is denied.

Resolution 02-0740 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0741 failed upon a unanimous vote (Public Document No. 02-1028-26).

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to enter into a lease agreement, a copy of which is on file in the office of the city clerk as Public Document No. 02-1028-23, with the Northwoods League, Inc., for the use of Wade Stadium for operation of a summer collegiate league baseball team at a rental rate of \$300 per home game; said sums to be payable to the Special Leagues Fund 210-030-2190-4615.

Resolution 02-0726 was unanimously adopted.

Approved October 28, 2002

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR STENBERG

02-052 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO THE CENTER OF ALCOHOL AND DRUG TREATMENT FOR AN AWNING IN THE JEFFERSON STREET RIGHT-OF-WAY LOCATED AT 1402 EAST SUPERIOR STREET.

- - -

BY COUNCILOR STENBERG

02-053 - AN ORDINANCE AMENDING SECTION 50-56(b) OF THE DULUTH CITY CODE 1959, AS AMENDED RELATING TO TWO-FAMILY DWELLINGS IN R-1 ZONES.

- - -

BY COUNCILOR STOVER

02-051 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN FOND DU LAC TO JOHN R. AND GLORIA J. DESMEDT.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR HOGG

02-047 (9565) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,385,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL WATER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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

- - -

BY COUNCILOR HOGG

02-048 (9566) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,825,000 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 HOGG

02-049 (9567) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,425,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL GAS UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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

- - -

BY PRESIDENT NESS

02-046 (9568) - AN ORDINANCE CREATING A COMMISSION ON HIGHER EDUCATION; ADDING A NEW ARTICLE XXX TO CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

President Ness moved to amend the Section 2-158 of the ordinance as follows:

(a) Add the words "University of Wisconsin - Superior" after "Lake Superior College" in line ten;

(b) Change the word "four" in line ten to "five;"

(c) Change the word "four" in line 12 to "five;"

(d) Change the word "seven" in line 14 to "five," which motion was seconded and unanimously carried.

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

- - -

At this time, 10:54 p.m., the rules were suspended, upon a unanimous vote, to extend the meeting until 11:10 p.m.

- - -

BY COUNCILOR STENBERG (INTRODUCED BY COUNCILOR STAUBER)

02-045 (9569) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 27 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S SUBURBAN TO M-1 MANUFACTURING PROPERTY LOCATED SOUTH OF ARROWHEAD ROAD BETWEEN QWEST AND KINGDOM HALL (MAHONEY).

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

Matt Mahoney, president of Bobcat of Duluth, Inc., spoke in support of the ordinance noting that his business will be an asset to the area and to the city. He noted that approval of this rezoning will indicate that the city supports small businesses.

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

- - -

BY COUNCILOR STENBERG (INTRODUCED BY COUNCILOR STAUBER)
02-050 (9570) - AN ORDINANCE AUTHORIZING AGREEMENT FOR SALE AND REDEVELOPMENT OF CERTAIN PROPERTY IN LINCOLN PARK WITH JO-ED PARTNERS FOR \$24,000.

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

- - -

The meeting was adjourned at 11:05 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9565

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,385,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL WATER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. Bond purpose and authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Section 444.075 and Chapter 475 of Minnesota Statutes and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal water utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal water utility pledged for their payment.

1.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal water utility, and determines that it is necessary to issue general obligation water utility revenue bonds in the amount of \$1,385,000 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 the following: general obligation water utility revenue bonds dated June 1, 1995, now outstanding in the amount of \$660,000; general obligation water utility refunding bonds dated September 1, 1997, now outstanding in the amount of \$1,580,000; general obligation water and sewer refunding bonds dated May 1, 1998, the water utility portion of such bonds now outstanding in the amount of \$1,655,000; general obligation water and sewer utilities revenue bonds dated December 1, 2000, the water utility portion of such bonds now outstanding in the amount of \$1,470,000; and general obligation utilities facility bonds dated September 1, 2002, the water utility portion of such bonds now outstanding in the amount of \$1,690,000. 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, September 1, 1997, May 1, 1998, December 1, 2000, and September 1, 2002.

1.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation water utility revenue bonds of the city of Duluth

in the amount of \$1,385,000, plus such additional amounts of bonds, if any, up to a maximum of 2% of the amount of bonds herein authorized, as the city council shall, by resolution, determine to issue as additional obligations representing interest as authorized by Minnesota Statutes, Section 475.56, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal water utility. Net revenues are defined as sums from time to time within the water utility operating account within the water utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal water utility and to maintain such reasonable reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

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

Section 2. Terms of bonds.

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

Section 3. Revenues and accounts.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal water utility at the times and amounts required to pay the normal, reasonable and current operating expenses and to maintain the municipal water utility and also produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

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

Section 4. Certificate of proceedings.

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

4.02 The officers of the city and the county auditor are authorized and directed to prepare and furnish to the purchasers of the bonds, and to bond counsel, certified copies of all proceedings and records of the city relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality

and marketability of the bonds as such facts appear from the official books and records in the officers' custody or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the city as to the correctness of the facts recited therein and the action stated therein to have been taken.

Section 5. Effective date.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 5, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed October 28, 2002
Approved October 28, 2002
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9566

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,825,000 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 maximum amount of \$1,825,000 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 the following: general obligation sewer utility revenue bonds dated June 1, 1995, now outstanding in the amount of \$1,320,000; general obligation sewer utility revenue bonds dated June 1, 1995, now outstanding in the amount of \$300,000; general obligation sewer utility refunding bonds dated December 1, 1995, now outstanding in the amount of \$145,000; general obligation water and sewer refunding bonds dated May 1, 1998, the sewer utility portion of such bonds now outstanding in the amount of \$415,000; general obligation sewer and steam utility revenue bonds dated December 1, 1998, the sewer utility portion of such bonds now outstanding in the amount of \$805,000; general obligation sewer

utility revenue bonds dated December 1, 1999, now outstanding in the amount of \$1,590,000; general obligation water and sewer utilities revenue bonds dated December 1, 2000, the sewer utility portion of such bonds now outstanding in the amount of \$550,000; general obligation gas and sewer utilities revenue bonds dated December 1, 2001, the sewer utility portion of such bonds now outstanding in the amount of \$1,330,000; and general obligation utilities facility bonds dated September 1, 2002, the sewer utility portion of such bonds now outstanding in the amount of \$2,003,000. 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, December 1, 1998, December 1, 1999, December 1, 2000, December 1, 2001, and September 1, 2002.

1.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation sewer utility revenue bonds of the city of Duluth in the maximum amount of \$1,825,000 and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal of and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal sewer utility. Net revenues are defined as sums from time to time within the sewer utility operating account within the sewer utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable, and current expenses of operating and maintaining the municipal sewer utility and to maintain such reasonable reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

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

Section 2. Terms of bonds.

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

Section 3. Revenues and accounts.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and amounts required to pay the normal, and current operating expenses and to maintain the municipal sewer utility and also to produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Section 4. Certification of proceedings.

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

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

Section 5. Effective date.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 5, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 28, 2002
Approved October 28, 2002
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9567

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,425,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL GAS UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. Bond purpose and authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter and Chapter 475 of Minnesota Statutes, and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal gas utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal gas utility pledged for their payment.

1.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal gas utility, and determines it is necessary to issue General Obligation Gas Utility Revenue Bonds in the maximum amount of \$1,425,000 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 the following: general obligation gas and sewer utilities revenue bonds dated December 1, 2001, the gas utility portion of such bonds now outstanding in the amount of \$5,300,000; and general obligation utilities facility bonds dated September 1, 2002, the gas utility portion of such bonds now outstanding in the amount of \$2,132,000. Under the provisions of the ordinance authorizing said bonds, the city reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds dated December 1, 2001, and September 1, 2002.

1.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation gas utility revenue bonds of the city of Duluth in the maximum amount of \$1,425,000, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal of and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal gas utility. Net revenues are defined as sums from time to time within the gas utility operating account within the gas utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable, and current expenses of operating and maintaining the municipal gas utility and to maintain such reasonable reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

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

Section 2. Terms of bonds.

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

Section 3. Revenues and accounts.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal gas utility at the times and amounts required to pay the normal, and current operating expenses and to maintain the municipal gas utility and also to produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

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

Section 4. Certification of proceedings.

4.01 The city clerk is directed to file with the county auditor of St. Louis County a certified copy of this ordinance, and such other information as the county may require, and to obtain from

the county auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

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

Section 5. Effective date.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 5, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed October 28, 2002
Approved October 28, 2002
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9568

BY PRESIDENT NESS:

AN ORDINANCE CREATING A COMMISSION ON HIGHER EDUCATION; ADDING A NEW ARTICLE XXX TO CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That a new Article XXX be added to Chapter 2 of the Duluth City Code, 1959, as amended, to read as follows:

Article XXX. Commission on Higher Education.

Sec. 2-158. Commission created; purpose; membership.

There is hereby established a commission on higher education. The purpose of this commission is to identify issues, challenges and opportunities which arise because college campuses are located in the city of Duluth. The commission will endeavor to act as a guide to the city in the development of public policy, planning, and services that affect the various higher education campuses within the city. The commission will endeavor to identify areas of common and mutual interest, areas of common concern, and areas of possible conflicting goals and values between the various campuses and the city. The commission shall consist of 15 members representing the College of St. Scholastica, University of Minnesota-Duluth, Lake Superior College, University of Wisconsin - Superior and Duluth Business University. Five of the members shall be official campus representatives with one member being selected by each respective campus. Five of the members shall be student representatives with the student government body of each respective campus selecting one member. The remaining five members shall be at large members

appointed by the mayor with the approval of the city council. Of the initial 15 appointments, five shall serve for one year, five shall serve for two years and five shall serve for three years.

Sec. 2-159. Officers; meetings; conduct of business.

The commission on higher education shall meet within 60 days after all its members are appointed to elect its officers, which shall consist of a chairperson, a vice chairperson and a secretary. Thereafter, the commission shall meet at stated intervals fixed by resolution of the commission. The commission may adopt reasonable bylaws, rules and regulations for the conduct of its business.

Sec. 2-160. Duties.

(a) Each year the commission on higher education shall establish a list of current issues which involve the academic institutions within the city and their relationship to the overall community. The commission shall study and discuss each of these issues, including gathering input from both the academic community and the community at large if appropriate. The commission shall then prepare a yearly report to the city council and administration each year setting forth a statement of each issue and the commission's findings, conclusions and recommendations on each issue;

(b) The commission may study and report upon additional issues and topics involving higher education/city relations that may arise from time to time. Such study may be initiated by the commission or at the request of the city council, city administration or an academic institution.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 8, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed October 28, 2002
Approved October 28, 2002
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9569

BY COUNCILOR STENBERG (introduced by Councilor Stauber):

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 27 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S SUBURBAN TO M-1 MANUFACTURING PROPERTY LOCATED SOUTH OF ARROWHEAD ROAD BETWEEN QWEST AND KINGDOM HALL (MAHONEY).

The city of Duluth does ordain:

Section 1. That Plate No. 27 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(MAP)

(see page 535)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 8, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed October 28, 2002
Approved October 28, 2002
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9570

BY COUNCILOR STENBERG (introduced by Councilor Stauber):

AN ORDINANCE AUTHORIZING AGREEMENT FOR SALE AND REDEVELOPMENT OF CERTAIN PROPERTY IN LINCOLN PARK WITH JO-ED PARTNERS FOR \$24,000.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to enter into a development agreement, a copy of which is on file in the office of the city clerk as Public Document No. 02-1028-24, with JO-ED Partners pursuant to which the city will convey, by quit claim deed, the property in St. Louis County, Minnesota, described in said agreement on Exhibit A thereto to the partnership for \$24,000; payable to the Permanent Improvements Fund 0411, Agency 035, Organization 2165, Revenue Source 4640, and the partnership will commit to the redevelopment of the property.

Section 2. That said proper city officials are authorized to execute all documents necessary with regard to said conveyance.

Section 3. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: December 8, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed October 28, 2002
Approved October 28, 2002
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, November 12, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-1112-01 Billman Construction, et al. (three signatures), submitting petition to vacate Locust Street between Ebony Avenue and Hugo Avenue (adjoining Lots 4 - 6), Maple Knoll Subdivision First Addition; the alley between Linden and Locust Streets between Ebony Avenue and Hugo Avenue (Blocks 12 and 13), Block 12, Duluth Heights Sixth Addition; and the alleys between Linden Street and Locust Street 125 feet west of Hugo Avenue (Block 12), Duluth Heights Sixth Addition. -- Assessor

02-1112-02 John Hovland submitting:

(a) Petition for improvements in Northridge Estates, including roadway and utilities. -- Assessor

(b) Waiver agreement for a hearing by the special assessment board in connection with his petition for improvements in Northridge Estates, including roadway and utilities. -- Engineering

02-1112-03 Dan Stocke submitting further petition (two signatures) to reclassify from R-1-b to R-3 property described as Lots 4 through 8, Auditors Plat 24. -- Assessor

02-1112-08 Duluth Public-Policy Alliance submitting communication regarding city planning and development process (02-0761R). -- Received

02-1112-09 Evensen Dodge, financial and investment advisors, submitting presale analysis for the following: (a) \$4,635,000 G.O. utilities revenue bonds, Series 2002G; (b) \$2,220,000 G.O. improvement bonds, Series 2002H; (c) \$1,780,000 G.O. equipment certificates of indebtedness, Series 2002I (02-0757R). -- Received

02-1112-04 The following submitting communications regarding the Bayfront Festival Park master plan (02-0655R(a)): (a) Jan Bloom; (b) Deborah Shubat; (c) Steve Townsend. -- Received

02-1112-05 The following submitting communications regarding proposed reappointments to the tree commission (02-0704R): (a) John Pastor; (b) Roni Seger Town. -- Received

- - -

REPORTS OF OFFICERS

02-1112-06 Assessor submitting:

(a) Affidavits of mailing of notice of public hearings of the special assessment board on November 12, 2002, in Room 106A, City Hall, at:

(1) 3:30 p.m. - regarding the proposed construction of sanitary sewer in Denney Drive from 12th Avenue East to 150 feet easterly (estimated assessable amount - \$60,440);

(2) 4:00 p.m. - regarding the proposed construction of sanitary sewer in Locust Street from Ebony Avenue extending 300 feet westerly (estimated assessable amount - \$36,000). -- Clerk

(b) Assessment roll to be levied to defray in full the expense of solid waste collection during the period March 1, 2001, to June 1, 2002, for which the collector has not been reimbursed;

(c) Letters of sufficiency of petitions to:

(1) Reclassify from R-1-b to R-3 Auditors Plat 24, Lots 4 through 7;

(2) Vacate an easement for public utilities over the easterly five feet of Lots 1 through 14, Block 1, and the westerly five feet of Lots 19 through 32, Block 1, Farrell and Culver's Addition to Kenwood. -- Received

02-1112-10 Clerk submitting application to Minnesota gambling control board for exemption from lawful gambling license from Rotary Club of Duluth Harbortown Minnesota USA (raffle) on April 2, 2003. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

- 02-1112-07 Housing and redevelopment authority of Duluth:
(a) Communication regarding allocation of 2003 low-income housing tax credits (02-0750R);
(b) Minutes of August 27, 2002, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Peggy Marrin suggested that the city prioritize its goals for the next legislative session, versus just sending a list of issues that are important to the city.

- - -

Gary Glass reviewed what he felt was the agreed upon understanding between the airport authority, Park Point Community Club, the Izack Walton League and concerned citizens regarding the pine forest trail at the Sky Harbor Airport. He elaborated that the number of pine trees being cut to install the fence around the airport is substantially more than what was agreed upon.

- - -

Kay L. Lewis commented on her concerns similar to Mr. Glass's regarding the number of trees being cut down at Sky Harbor Airport; the need for a one-way sign on Superior Street and Second Avenue West; a proposed skywalk to St. Mary's Hospital area and the recent energy saving light bulb sale.

- - -

Brian Daugherty, Grandma's Restaurants, commented on the affect the current smoking ordinance has had on their businesses and a concern relative to the upcoming April 1, 2003, changes that will go into affect. He requested that the council consider a small modification to the smoking ordinance.

- - -

RESOLUTIONS TABLED

Councilor Stenberg moved to remove Resolution 02-0655(a), adopting the Bayfront master plan, except the living water garden and grant securement portion, as a guideline for the future redevelopment of the Bayfront area, from the table, which motion was seconded and unanimously carried.

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

Peggy Marrin commented on how an issue like this is spent on "recycling" issues when it does not go a certain way.

Kay L. Lewis voiced support for the plan and noted the need for the priority for good revenue access estimates so funding is received as the plan is implemented.

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

- - -

Councilor Bergson moved to remove Resolution 02-0626, requesting the administration to conduct an independent financial and performance audit of the city's animal shelter operation, from the table, which motion was seconded and unanimously carried.

Councilor Bergson stated that he has met with the chief of police and that he believes his concerns have been adequately addressed.

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

- - -

Councilor Stauber moved to remove Resolution 02-0669, requesting the Charter commission to recommend adoption of an ordinance amending Section 8 and Section 31 of the City Charter to provide increased flexibility in the awarding of contracts, from the table, which motion was seconded and unanimously carried.

Councilor Hogg moved to amend the resolution and public document by deleting "all references to Section 31," which motion was seconded and unanimously carried.

Resolution 02-0669, as amended, was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that the city council hereby requests the Charter commission to recommend adoption of an ordinance amending Section 8 of the City Charter, which proposed ordinance is on file in the office of the city clerk as Public Document No. 02-1112-11.

Resolution 02-0669, as amended, was unanimously adopted.

Approved November 12, 2002

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 02-1112-06(b), which is levied to defray in full the expense of solid waste collecting during the period of March 1, 2001, to June 1, 2002, for which the licensed collector has not been reimbursed as provided for in Chapter 24 of the Duluth City Code, is hereby confirmed.

Resolution 02-0756 was unanimously adopted.

Approved November 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

(a) Authorization of bonds and certificates. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its general obligation bonds and general obligation equipment certificates of indebtedness for the following purposes:

(1) \$4,635,000 general obligation utilities revenue bonds, Series 2002G, are hereby authorized and shall be issued pursuant to Ordinance Nos. 9565, 9566 and 9567, adopted October 28, 2002, 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 water, sewer and gas utilities;

(2) \$2,220,000 general obligation improvement bonds, Series 2002H, 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

(3) \$1,780,000 general obligation equipment certificates of indebtedness, Series 2002I (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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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. The \$4,635,000 general obligation utilities revenue bonds, Series 2002G, and the general obligation improvement bonds, Series 2002H, are hereinafter referred to as the bonds.

(b) Issuance and sale of bonds and certificates. The terms and conditions of the bonds and certificates and the sales thereof are set forth in the official terms of offerings on file with the city clerk as Public Document No. 02-1112-21. Each and all of the terms and provisions set forth in the official terms of offerings are adopted and confirmed as the terms and conditions of the bonds and certificates and the sales thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds and certificates.

(c) Competitive sale of bonds and certificates. Evensen Dodge, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sales of the bonds and certificates in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering.

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

Resolution 02-0757 was unanimously adopted.

Approved November 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that proper city officials be and hereby authorized to sell one 1995 Sno-Go Model WK800 snowblower to MacQueen Equipment Company in accordance with its high bid of \$25,010, revenue to General Fund 0100, Dept/Agency 700, Organization 1418, Revenue Source 4639.

Resolution 02-0753 was unanimously adopted.

Approved November 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 1998 and 1999 CDBG accounts; and WHEREAS, the community development committee (CD committee) for the CDBG program approved the programs.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund transfers in the Federal Program Fund 262 - 1998 and 1999 HUD funded community development accounts as set forth below:

Project #	Project	Budget amount	New amount	Amount of increase or decrease
1998 CDBG transfers				
6109	Lincoln Park Restoration	\$46,000	\$50,833	+\$4,833
1999 CDBG transfers				
6212	Lincoln Park Restoration	\$80,000	\$75,167	-\$4,833

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Resolution 02-0746 was unanimously adopted.
Approved November 12, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into a community development block grant agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 02-1112-12 with the housing and redevelopment authority of Duluth, Minnesota, (HRA) for acquisition and demolition services in an amount not to exceed \$135,000, payable from 2002 Federal Program Fund 262 - community development, Agency 625, Project Account No. 6520.

Resolution 02-0747 was unanimously adopted.
Approved November 12, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, Teresa K. Johnson has submitted to the city council a request for a special use permit for a home beauty salon on property located at 137 West Central Entrance and described as Lots 25 and 26, Block 30, Duluth Heights Sixth Division, 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 Teresa K. Johnson to allow for the operation of a home beauty salon at 137 West Central Entrance, 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. 02-1112-13;
- (b) That the necessary inspections are received; and
- (c) The term of the permit run for ten years at which time renewal may be considered.

Resolution 02-0742 was unanimously adopted.
Approved November 12, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Third Avenue East between Mesaba Avenue and Eleventh Street, legally described as that portion of Third Avenue East lying between Lot 49, Block 165, and Lot 47, Block 166-1/2, Duluth Proper Third Division; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its Wednesday, October 23, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

the vacation of Third Avenue East described above, and as more particularly described on Public Document No. 02-1112-14.

RESOLVED FURTHER, that the easterly 33 feet of the vacated right-of-way be retained as a utility easement.

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

Resolution 02-0743 was unanimously adopted.

Approved November 12, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

WHEREAS, the proper city officers are hereby authorized and directed to execute an agreement (Public Document No. 02-1112-15) 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, 2002, through December 31, 2003. Monies collected under said contract shall be deposited in Federal Program Fund 0272, Dept. 031, Org. 6302/6303, Revenue Source 4654.

Resolution 02-0733 was unanimously adopted.

Approved November 12, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

WHEREAS, the Hartley Nature Center has applied, on behalf of the city, for a coastal program grant to be used solely for a pervious surface demonstration project as part of the new Hartley Nature Center project at Hartley Park; and

WHEREAS, the Minnesota coastal program has approved a matching grant in the amount of \$24,140.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized and directed to execute the grant agreement filed as Public Document No. 02-1112-16, between the city of Duluth and the state of Minnesota, which awards the city a matching grant in the amount of \$24,140 to be used for the Hartley Nature Center pervious surface demonstration project, said grant funds to be deposited into Fund 0210-030-2108.

Resolution 02-0735 was unanimously adopted.

Approved November 12, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with Independent School District 709 for the services of one .5 FTE teacher to provide basic education instructional services to Workforce Investment Act program participants at the Duluth workforce center for the period September 1, 2002, through June 30, 2003, at a cost of \$28,445. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 02-1112-17.

FURTHER RESOLVED, that costs incurred shall be charged to Fund 0268, Budget Items 6255 and 6257.

Resolution 02-0736 was unanimously adopted.

Approved November 12, 2002

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to accept \$268,576 in Workforce Investment Act adult funds from the Minnesota department of economic security in accordance with City Contract No. 19118, Resolution No. 02-0400, passed June 24, 2002. Said monies are to be used to provide work force development services to adults under the Workforce Investment Act, as defined in the program year 2002 - 2003 local plan update for adult services, from July 1, 2002, through June 30, 2004. Funds received will be deposited in Fund No. 0268, Budget Item 6257.

Resolution 02-0738 was unanimously adopted.

Approved November 12, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that proper city officials are hereby authorized to accept an additional \$2,328 in Workforce Investment Act funds from the Minnesota department of economic security in accordance with City Contract No. 18880, Resolution No. 01-0250, passed April 9, 2001. Said monies to be used to provide work force development services to adults under the Workforce Investment Act, as defined in the program year 2001 - 2002 local plan for adult services, from July 1, 2001, through June 30, 2003. Funds received will be deposited in Fund No. 0268, Budget Item 6248.

Resolution 02-0739 was unanimously adopted.

Approved November 12, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

WHEREAS, the stormwater utility of the city of Duluth and the department of planning and development developed a plan for mapping the tributaries of trout streams in Duluth; and

WHEREAS, the city of Duluth has accepted a \$12,000 grant from the Minnesota department of natural resources in Resolution No. 00-0815, which was used for mapping tributaries of Duluth trout streams (grant Contract 306-15-02); and

WHEREAS, the Minnesota department of natural resources has offered to amend the above mentioned grant to add \$5,000 to be used for the above mentioned stream mapping project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized to execute the grant amendment filed in the office of the city clerk as Public Document No. 02-1112-18. Such funds shall be deposited into Fund 0535, Revenue Source 4230.

Resolution 02-0748 was unanimously adopted.

Approved November 12, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

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. 02-1112-19, with the law firm of Fryberger, Buchanan, Smith & Frederick, P.A., for professional legal services relating to the suballocation of low-income housing tax credits in an

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

amount not to exceed \$5,000, Fund 0262, Agency 020, Org. 2600, payable from fees generated by the low-income housing tax program.

Resolution 02-0749 was unanimously adopted.

Approved November 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to pay to Brian D. Asmus the sum of \$21,132.03 in full and final settlement of the claim which arose out of a blockage in the municipal sanitary sewer; payment to be made from Self-Insurance Fund 0610.

Resolution 02-0744 was unanimously adopted.

Approved November 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Polyphase Electric Company be and hereby is awarded a contract for two traffic control signal systems at Kenwood Avenue and College Street and at Junction Avenue, 19th Avenue East and College Street for the engineering division in accordance with specifications on its low specification bid of \$348,885, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2228, Object 5530; to be reimbursed through municipal state aid funds (MSA).

Resolution 02-0751 was unanimously adopted.

Approved November 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that St. Joseph Equipment be and hereby is awarded a contract for furnishing and delivering one Case Model 580SM backhoe/loader for the utility operations division in accordance with specifications on its low specification bid of \$85,849.65, terms net 30, FOB destination, payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5580.

Resolution 02-0752 was unanimously adopted.

Approved November 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Electrical Installation and Maintenance Company be and hereby is awarded a contract for traffic control signal modifications, LED installation at various locations on MSA routes for the engineering division in accordance with specifications on its low specification bid of \$197,563.05, terms net 30, FOB job sites, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2227, Object 5226; to be reimbursed through municipal state aid funds (MSA).

Resolution 02-0755 was unanimously adopted.

Approved November 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

RESOLVED, that the proper city officials are hereby authorized to execute Mn/DOT Agreement No. 83837R with the state of Minnesota and St. Louis County for the relocation and replacement of a traffic control signal and the installation of street lighting and signage on Trunk Highway 53 (Trinity Road) - Trunk Highway 53 (Piedmont Avenue) at County State Aid Highway 54 (Piedmont Avenue) within the corporate limits of Duluth and constructed as County Project No. 8255 and State Project No. S.P. 6915-123; said agreement filed in the office of the city clerk as Public Document No. 02-1112-20. Under the agreement the state and county shall be responsible for construction costs and the city be responsible for electric power supply and maintenance of said signal.

Resolution 02-0762 was unanimously adopted.

Approved November 12, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that Reeves Company be and hereby is awarded a contract for furnishing and delivering decontamination equipment for the fire department in accordance with specifications on its low specification bid of \$29,562.87, terms net 30, FOB Frederick, MD, payable out of Special Projects Fund 0210, Dept./Agency 030, Organization 2168, Object 5580.

Resolution 02-0754 was unanimously adopted.

Approved November 12, 2002

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 02-0694, by Councilor Hogg, authorizing a contribution to the Lake Superior Center authority of up to \$175,000 from the tourism fund, was introduced for discussion.

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

Peggy Marrin stated that other organizations that benefit from the tourism tax fund will experience a decrease in funding if this resolution is passed. She also questioned how much more future city funding will be necessary for this facility.

Councilors Gilbert and Stover expressed the following concerns: this is a subsidy, beyond legal bond payments and construction costs; that these funds could be used in more needed areas; that the aquarium is an independent tax-exempt entity with access to other funding sources and with better management operations, donations and other options will be forthcoming.

Resolution 02-0694 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the proper city officials are hereby authorized to appropriate to Lake Superior Center authority, an amount not to exceed \$175,000. These funds are to be used to assist the authority in meeting the operating costs of the Great Lakes Aquarium; said sums shall be appropriated from the Tourism Fund 0258 fund balance.

Resolution 02-0694 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Hogg, Stauber, Stenberg, Stewart and President Ness -- 7

Nays: Councilors Gilbert and Stover -- 2

Approved November 12, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0761, by Councilors Stewart and Hogg, requesting that the mayor promptly

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

take whatever action he deems necessary to restore public confidence in the city's planning and development efforts, was introduced for discussion.

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

Yeas: Councilors Atkins, Bergson, Stauber, Stenberg and President Ness -- 5

Nays: Councilors Gilbert, Hogg, Stewart and Stover -- 4

The resolution failed upon the following vote (Public Document No. 02-1112-22):

Yeas: Councilors Gilbert, Hogg, Stewart and Stover -- 4

Nays: Councilors Atkins, Bergson, Stauber, Stenberg and President Ness -- 5

- - -

BY COUNCILOR GILBERT:

WHEREAS, pursuant to Minnesota Statutes, Sections 462A.221 through 462A.225 (the act), the city of Duluth, Minnesota (the city) is a suballocator of low-income housing tax credits (LIHTCs); and

WHEREAS, the city's 2003 allocation of LIHTCs is \$251,149; 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 2003 setting forth criteria governing the award of the city's LIHTCs; and

WHEREAS, pursuant to city council Resolution 02-0700, adopted October 15, 2002, as amended, the city approved the Duluth housing commission's prioritization of LIHTCs projects giving first priority to Village Place at Duluth; 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 administer the allocation of the city's 2003 LIHTC in accordance with the city's plan.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth hereby authorizes MHFA to award the city's 2003 LIHTCs to Village Place at Duluth pursuant to the agreement with MHFA.

Resolution 02-0750 was unanimously adopted.

Approved November 12, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0745, by Councilor Stenberg, approving settlement of claim of Stout Mechanical, Inc., in the amount of \$116,095.32, was introduced for discussion.

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

Kyle Torvinen was present to answer any questions and request support for the resolution.

William Mahai, tenant in the Baxter building, spoke of his concern that this particular settlement does not include all the other parties that are involved in this situation. He felt that all parties involved should be included before relocation funds are disbursed.

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

Yeas: Councilors Atkins, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 7

Nays: Councilor Bergson -- 1

Abstention: Councilor Gilbert -- 1

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR STEWART

02-037 - AN ORDINANCE AMENDING THE REGULATIONS FOR THE DEMOLITION OF HAZARDOUS BUILDINGS; AMENDING SECTION 10-3 AND REPEALING IN ITS ENTIRETY SECTION 10-7 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Councilor Stewart moved to amend the ordinance by replacing all language in Section 10-3 with the sentence, "Demolition of damaged, illegal or dangerous buildings or structures shall be done in conformance with applicable laws of the state of Minnesota," which motion was seconded and unanimously carried.

Because of the substantial change in the language, it was determined that the amended ordinance be considered as being read for the first time and that it will have a second reading at the next meeting.

- - -

The following entitled ordinances are to be read for the second time:

BY COUNCILOR STENBERG

02-052 (9571) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO THE CENTER OF ALCOHOL AND DRUG TREATMENT FOR AN AWNING IN THE JEFFERSON STREET RIGHT-OF-WAY LOCATED AT 1402 EAST SUPERIOR STREET.

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

- - -

BY COUNCILOR STENBERG

02-053 - AN ORDINANCE AMENDING SECTION 50-56 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO TWO-FAMILY DWELLINGS IN R-1 ZONES.

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

- - -

BY COUNCILOR STOVER

02-051 (9572) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN FOND DU LAC TO JOHN R. AND GLORIA J. DESMEDT.

Councilor Stover 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. 9571

BY COUNCILOR STENBERG:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO THE CENTER OF ALCOHOL AND DRUG TREATMENT FOR AN AWNING IN THE JEFFERSON STREET RIGHT-OF-WAY LOCATED AT 1402 EAST SUPERIOR STREET.

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 Center for Alcohol and Drug Treatment, their successors

and interests, referred to herein as the permittees, to occupy, erect and maintain an awning in that part of Jefferson Street as the same was dedicated to the use of the public and the plat of Banning and Rays Subdivision, 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 Jefferson Street adjoining Lots 1 and 2, Block 6, Banning and Rays Subdivision.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance; a certificate of insurance approved as to form by the city attorney evidencing that such person or organization has in force insurance in the minimum amounts of \$300,000 for bodily injuries resulting in any year and \$50,000 property damage in any one year protecting such person or organization and the city of Duluth against liability for injuries or damages resulting from the placement of such objects or materials on public sidewalks or boulevard areas. The permission granted by such ordinance shall be conditioned upon such person or organization continuing to supply the city with evidence that such insurance remains in effect and all insurance required herein shall contain a provision that no policy may be canceled until ten days after written notice is given to the city clerk. Such policy shall name the city as an additional insured; and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

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

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

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such 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 Jefferson Street 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 Jefferson Street.

Section 6. That the permittee shall further install and maintain the awning in accordance with Plans submitted by Design Alternative, Randall M. Blomquist, entitled Center for Alcohol and Drug Treatment, Outpatient Program Remodeling, Sheet C2, dated August 6, 2002.

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 27, 2002)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9
Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed November 12, 2002
Approved November 12, 2002
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9572

BY COUNCILOR STOVER:

AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY
IN FOND DU LAC TO JOHN R. AND GLORIA J. DESMEDT.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, by quit claim deed, to John R. and Gloria J. DeSmedt for \$400, to be deposited in General Fund 0100-700-1418-4640, and to execute all documents necessary with regard to said conveyance:

that part of the Plat of East Fond Du Lac which overlies Lot 182, FOURTH STREET, FOND DU LAC, according to the plat thereof on file and of record in the office of the register of deeds for St. Louis County, Minnesota, in Book A of Plats, Page 56 and in Book A of Plat Certificates, page 18.

Except minerals.

Section 2. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: December 27, 2002)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9
Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed November 12, 2002
Approved November 12, 2002
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 25, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Absent: Councilor Bergson -- 1

- - -

The minutes of the city council meeting held on July 22, 2002, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-1125-01 Richard and Camila Follmer submitting petition to construct sanitary sewer within Petre Street. -- Assessor

02-1125-02 Darrell and Sherri Pearson submitting petition to vacate the platted but undeveloped alleyway between Lot 34 and Lots 1, 2, 3, 4 and 5, and Tromsoe Road which fronts Lots 32, 33, 34 and Lot 1, Block 2, Home Builders Park. -- Assessor

02-1125-03 Sisto Santodonato, et al. (four signatures), submitting petition to have 150 feet of sidewalk removed from in front of 2213 Sussex Avenue, Block 1, Lots 24, 25 and 26. -- Assessor

02-1125-04 Sherman and Associates submitting petition to reclassify from R-1-c to R-3 property located at 510 North 40th Avenue West. -- Assessor

02-1125-24 Greater Downtown Council submitting communication regarding the proposed residential facility for chronic alcoholics (02-0776). -- Received

02-1125-05 Nancy Nelson submitting communication regarding the proposed ordinance changing the meeting time of the planning commission (02-044-O). -- Received

02-1125-23 Deanne Westermann submitting communication regarding the proposed vacation of 64th Avenue West from Redruth Street to the southerly boundary of the abandoned Burlington Northern Railroad right-of-way (02-0768R). -- Received

- - -

REPORTS OF OFFICERS

02-1125-06 Assessor submitting:

(a) For confirmation the assessment rolls levied to defray the assessable portions of reconstruction of alley - 61st Avenue West between Bristol and Green streets, Contract 5347 (assessable - \$28,223.99) and bituminous overlay of existing concrete alley - 103rd Avenue West from McGonagle Street and 102nd Avenue West, Contract 5348 (assessable - \$7,104.69);

(b) Letters of sufficiency to:

(1) Improve Northridge Estates, including roadway and utilities;

(2) Vacate Locust Street between Ebony Avenue and Hugo Avenue; the alley between Linden and Locust Streets between Ebony and Hugo Avenues; and the alley between Linden and Locust Streets, 125 feet west of Hugo Avenue. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-1125-07 Parking commission minutes of October 15, 2002, meeting. -- Received

02-1125-08 Spirit Mountain recreation area authority minutes of September 25, 2002, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Regarding Resolution 02-0761, requesting that the mayor promptly take whatever action

he deems necessary to restore public confidence in the city's planning and development efforts, which was recently considered, Bevin Schraw, Peggy Marrin, Kay L. Lewis, Iver Bogen, representing the Duluth Public Policy Alliance, and Deb Kirpach expressed their concerns about the process followed by the majority of the council which prevented individuals from expressing their opinion on the issue. They stated support for the resolution, which failed, and emphasized that the public input that the administration stated that they would support has not been included in the comprehensive plan.

- - -

Kay L. Lewis spoke on the Great Lakes Aquarium; the one-way sign at 2nd Avenue West and Superior Street and the airport at Park Point.

- - -

C. J. Bird presented information regarding the use of Spirit Mountain for a golf course (Public Document No. 02-1125-13) and commented on the retention of the audio tape from the parks and recreation commission meeting of November 20, 2002.

- - -

Barry LeBlau and Steve Johnson representing the charter fishing industry expressed their concern of being informed of any changes to the Bayfront master plan.

- - -

At this time, 8:03 p.m., President Ness recessed the council meeting and announced that the public hearing regarding housing revenue bonds (Ramsey/Irving Townhouses) would begin.

Karen Olesen, representing the community development and housing division, reviewed the scope of the project.

No one appeared who wished to be heard and President Ness announced that this public hearing will be resumed at 7:30 p.m., on December 2, 2002, so that the council can be supplied with pertinent information regarding the project. At this time at this time, 8:05 p.m., President Ness closed the public hearing.

- - -

At this time, 8:06 p.m., President Ness announced that the public hearing regarding the proposed condemnation for a residential facility for chronic alcoholics would begin (02-0776R).

Kay L. Lewis, Connie Ross, C. J. Bird, Leslie Martinez, Peggy Marrin and Doug Happy spoke in support of the resolution. The following concerns were made in support of the resolution: there is a need to move these individuals from the Downtown business area; a facility that addresses the alcohol problems for the city's youth needs to be included in this type of site; many of the needs of individuals who suffer from problems related to alcohol will be addressed at this location and without a shelter such as this, homeless individuals will die on the street, especially with the cold weather.

Thomas Allnew and Paul King spoke in opposition to the resolution and stated that the owner is interested in selling this property to the developer, but the owner has maintained the property and structure, which is sound, and a fair price is not being offered.

Swede Soderlund stated that he owns a building in the proposed area and requested that it be considered for this purpose.

At this time, 8:45 p.m., President Ness closed the public hearing and announced that the regular council meeting would resume.

- - -

Councilor Stenberg moved to consider Resolution 02-0776, authorizing condemnation of Lots 44, 46 and 48, West Third Street, Duluth Proper First Division, for creation of a residential facility for chronic alcoholics, at this time, which motion was seconded and unanimously carried.

Resolution 02-0776 was adopted as follows:

BY COUNCILOR STENBERG:

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

(a) That there is a great public need, in the city of Duluth generally and especially in the city's core neighborhoods, to create a residential facility for chronic alcoholics (the facility) to provide housing for persons with alcohol abuse problems which have not proved amenable to treatment;

(b) That, taking into account all relevant economic, social and geographical factors, the below-described property is the most suitable property upon which to locate such a facility;

(c) That the acquisition of the below-described property is necessary to the development of the aforesaid facility;

(d) That acquisition of the below-described property without the use of the powers of eminent domain is not practically feasible;

(e) That in order to insure the availability of funds for this project from a known and available funding source, it is necessary to demonstrate site control by December 12, 2002, which requirement for demonstrating site control requires that the city commit to acquire the property within a time frame such that the quick-take procedures must be used and therefore it is necessary to exercise the quick-take powers as authorized by Minnesota Statutes 117.042.

FURTHER RESOLVED, that the proper city officials are hereby authorized to exercise the power of eminent domain as authorized in Minnesota Statutes Chapter 117 to acquire that property in St. Louis County, Minnesota, generally described as follows for the purpose of developing a residential facility for chronic alcoholics:

Lots 44, 46 and 48, West Third Street, DULUTH PROPER First Division.

FURTHER RESOLVED, that said city officials are hereby authorized to acquire possession of said property as expeditiously as possible pursuant to the provisions of Minnesota Statutes 117.042.

FURTHER RESOLVED, that said city officials are hereby authorized to pay cost of acquisition of said property as established pursuant to Minnesota Statutes Chapter 117 and to pay all costs associated with said acquisition proceeding.

Resolution 02-0776 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

RESOLUTIONS TABLED

Councilor Stewart move to remove Resolution 02-0704, confirming the reappointments of Robert N. Johnson and Stephen Khalar to the tree commission, from the table, which motion was seconded and unanimously carried.

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

Peggy Marrin spoke in opposition to the resolution because the individuals interviewed did not acknowledge that problems presently exist for the commission.

Councilors Stewart and Hogg and President Ness opposed the resolution for the following reasons: because of poor attendance, the commission has become nonfunctional; there is an attitude about the process and there is a need for this commission to address concerns that have

been stated previously.

Resolution 02-0704 failed upon the following vote (Public Document No. 02-1125-09).

Yeas: Councilors Atkins, Stauber and Stenberg -- 3

Nays: Councilors Gilbert, Hogg, Stewart, Stover and President Ness -- 5

Absent: Councilor Bergson -- 1

- - -

Councilor Stenberg moved to remove Resolution 02-0628, vacating a stormwater easement in Richards' First Addition and a ten foot wide utility easement in Arrowhead Second Addition (Richards), from the table, which motion was seconded and unanimously carried.

Resolution 02-0628 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a stormwater easement over Outlot A, Richards' First Addition, and a utility easement on Outlot A, Arrowhead Second Addition, legally described as:

(a) Stormwater easement on Outlot A, Richards' First Addition;

(b) Utility easement on the northerly ten feet of Outlot A, Arrowhead Second Addition to Duluth; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its September 10, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the stormwater easement and ten foot utility easement described above and as more particularly described on Public Document No. 02-1125-10.

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

Resolution 02-0628 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

Councilor Stenberg moved to remove Resolution 02-0745, approving settlement of claim of Stout Mechanical, Inc., in the amount of \$116,095.32, from the table, which motion was seconded and unanimously carried.

Resolution 02-0745 was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officials are authorized to pay to Stout Mechanical, Inc., the amount of \$116,095.32 in full and final settlement of the claim which arose out of the relocation of Stout Mechanical, Inc., which relocation occurred as part of the acquisition of the Baxter building, formerly located in Lincoln Park, by the city of Duluth; payment to be made from Permanent Improvement Fund 0411, Agency 035, Org. 2165.

Resolution 02-0745 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

RESOLVED, that the assessment rolls levied to defray the assessable portions of the construction of:

(a) Alley reconstruction at 61st Avenue West between Bristol and Green Streets (Contract No. 5347, assessable amount - \$ 28,223.99);

(b) Bituminous overlay of existing concrete alley at 103rd Avenue West from McGonagle Street and 102nd Avenue West (Contract No. 5348, assessable amount - \$7,104.69), are hereby confirmed.

Resolution 02-0764 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Viking Electric Supply, Inc., be and hereby is awarded a contract for furnishing and delivering the replacement parts for Downtown area and Canal Park area ornamental street lighting system for the traffic operations division in accordance with specifications on its low specification bid of \$43,950.15, terms net 30, FOB destination, \$20,873.70 payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization NR00, Object E036 and \$23,076.45 payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization NR01, Object E115.

Resolution 02-0778 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Comark, Inc., be and hereby are awarded a contract for furnishing and delivering miscellaneous microcomputer hardware, ordered as needed during a 12 month period in accordance with specifications and referencing state of Minnesota Contract #426490 pricing for the various city departments/divisions, terms net 30, FOB destination, payable out of various funds, departments/agencies, organizations, objects; not to exceed the year 2003 budget allocation for computer equipment in the amount of \$80,000.

Resolution 02-0780 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Gateway Companies, Inc., be and hereby are awarded a contract for furnishing and delivering miscellaneous microcomputer hardware, ordered as needed during a 12 month period in accordance with specifications and referencing state of Minnesota Contract #425039 pricing for the various city departments/divisions, terms net 30, FOB destination, payable out of various funds, departments/agencies, organizations, objects; not to exceed the year 2003

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

budget allocation for computer equipment in the amount of \$150,000.

Resolution 02-0781 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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, 2003, subject to departmental approvals and the payment of sales and property taxes:

Legacy Restaurants, Inc. (Duluth Athletic Club Bar and Grill), 21 North Fourth Avenue West, with Pete Emerson, 90 percent stockholder, Michael Emerson, 5 percent stockholder, and Phillip Warmanan, 5 percent stockholder, transferred from Blue Water Bar & Grill, Inc, (Champps Americana), same address.

Resolution 02-0786 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, the John Beargrease Sled Dog Marathon 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 John Beargrease Sled Dog Marathon 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 02-0787 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the city of Duluth hereby accepts a grant in the amount of \$32,000 from the U.S. department of agriculture - natural resources for the Lincoln Park Miller Creek restoration project, to be deposited into the Stormwater Utility Fund 535, Org. 0500, Rev. Src. 4230.

BE IT FURTHER RESOLVED, that the city hereby authorizes the local match as identified in the application in the amount of \$32,000 payable from stormwater utility Fund 0535, Agency 500, Org. 1945, Obj. 5303.

BE IT FURTHER RESOLVED, that upon completion of Minnesota historical preservation office approval, the proper city officials are authorized to enter into the grant agreement with the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

state of Minnesota for the above-referenced project.
Resolution 02-0784 was unanimously adopted.
Approved November 25, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of Basswood Avenue south of Morgan Street, and portions of Walnut Street between Bryant Avenue and Wilson Avenue legally described as; Basswood Avenue adjoining Lots 1-21, Block 6 and Lots 25-48, Block 7, and Walnut Street adjoining Blocks 6 and 7, Arlington Place Addition to Duluth 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 November 13, 2001, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Basswood Avenue south of Morgan Street, and portions of Walnut Street between Bryant Avenue and Wilson Avenue described above and as more particularly described on Public Document No. 02-1125-11.

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

Resolution 02-0766 was unanimously adopted.
Approved November 25, 2002
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the alley from Midway and Portal avenues between Brook and Meadow streets legally described as: alley in Block 7, Rearrangement of Norton's Bayview Heights, 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 Tuesday, November 12, 2002, 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. 02-1125-12.

RESOLVED FURTHER, that the full right-of-way be retained as a utility easement.

RESOLVED FURTHER, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this

resolution together with a plat showing the portion of the alley to be vacated and the utility easement being retained.

Resolution 02-0767 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, Kate M. Cartier has submitted to the city council a request for a special use permit for a home beauty salon on property located at 2628 West Skyline Parkway and described as: Lots 3 and 4, Block 5, Merchants Park Division of Duluth, except the northerly 17 feet thereof, 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 Kate M. Cartier to allow for the operation of a home beauty salon at 2628 West Skyline Parkway 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. 02-1125-14;

(b) That the necessary inspections are received; and

(c) The term of the permit run for ten years at which time renewal may be considered.

Resolution 02-0769 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a utility easement in the block north of Catherine Street, between Kenwood and Warren Avenues legally described as the ten foot wide utility in Block One, Farrell and Culver's Addition to Kenwood; and

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

WHEREAS, the city planning commission unanimously approved the utility easement vacation petition at its November 12, 2002, 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. 02-1125-15.

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

Resolution 02-0770 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of Locust Street between Ebony and Hugo avenues, the alleyway between Linden and Locust streets and Ebony and Hugo avenues, and the alleyway between Linden and Locust Streets, 125 feet west of Hugo Avenue; legally described as: Locust Street adjoining part of Blocks 12 and 13, Duluth Heights Sixth Division; and the alleys in Block 12, 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 street and alley vacation petition at its November 12, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of that portion of Locust Street and the alleys described above and as more particularly described on Public Document No. 02-1125-16.

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

Resolution 02-0771 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute the easement agreements, filed as Public Document No. 02-1125-17, which grants the city a utility easement and a sanitary sewer easement in property owned by Allete, Inc. (Minnesota Power), adjacent to the United Health Care site near the intersection of Arrowhead Road and Rice Lake Road in Duluth.

Resolution 02-0759 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are authorized to purchase from the Duluth, Missabe and Iron Range Railway for a consideration of \$4,810 to be paid from Fund 0521, Agency 500, Object 5532, certain railroad right-of-way more particularly described as:

all that part of the westerly 20 feet of the Duluth, Missabe and Iron Range Railway Company's right of way located in the Southeast Quarter of the Southeast Quarter (SE ¼ of SE ¼) of Section 27, Township 49 North, Range 15 West of the Fourth Principle Meridian, St. Louis County, Minnesota, lying southerly of the extension of the northerly line of Lot 22 of Auditor's Plat No. 20, St. Louis County, Minnesota, and lying northerly of the extension of the southerly line of Lot 20 of said Auditor's Plat No. 20;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

and to execute the purchase agreement filed as Public Document No. 02-1125-18.

Resolution 02-0760 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, 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. 02-1125-19; payment by the city will be made from the general fund, other functions, Agency 015, Miscellaneous 2020, Object MS14.

Resolution 02-0772 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to pay to Roy and Toni Christensen the sum of \$12,776.11 in full and final settlement of the claim which arose out of a blockage in the municipal sanitary sewer; payment to be made from Self-Insurance Fund 0610.

Resolution 02-0773 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it is deemed necessary for the public convenience and safety that Minnesota Bridge No. L8504 on Seven Bridges Road over Amity Creek, City Project No. 0161TR, be reconstructed; and

WHEREAS, this project will not be eligible for state transportation funds unless it is constructed to rural and suburban standards for a projected average daily traffic count of 50 to 149 vehicles, or unless a variance is granted; and

WHEREAS, practical limitations require that a narrower lane and shoulder width through the project segment than is dictated by standards resulting in a ten foot lane width with one foot shoulders in lieu of a 11 foot width with three foot shoulders and a 20 foot overall bridge width in lieu of the required 32 foot width which requires a variance from the commissioner of transportation in accordance with Minnesota Rules Chapter 8820.3300.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth requests the commissioner of transportation for a variance from Chapter 8820, whereby the urban state aid standards be reduced for this project allowing for a ten foot lane width and one foot shoulders in lieu of the required 11 foot lane width with three foot shoulders and a 20 foot overall bridge width in lieu of the required 32 foot width, and further provided that if the commissioner grants the variance that the city of Duluth hereby agrees to indemnify, save, and hold harmless the state of Minnesota and its agents and employees from any and all claims, demands, actions, or causes of action arising out of or by reason of the reconstruction of Minnesota Bridge No. L8504 on Seven Bridges Road over Amity Creek in the city of Duluth in any manner other than in accordance with Minnesota Rule 8820.9920, and further agrees to defend at its sole cost and expense any action or proceeding

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

commenced for the purpose of asserting any claim or whatsoever arising as a result of the granting of this variance.

Resolution 02-0774 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it is deemed necessary for the public convenience and safety that Minnesota Bridge No. L8506 on Seven Bridges Road over Amity Creek, City Project No. 0162TR, be rehabilitated; and

WHEREAS, this project will not be eligible for state transportation funds unless it is constructed to rural and suburban standards for a projected average daily traffic count of 50 to 149 vehicles, or unless a variance is granted; and

WHEREAS, practical limitations require that a narrower lane and shoulder width through the project segment than is dictated by standards resulting in a nine foot three inch lane width and one foot shoulders in lieu of a 11 foot lane width with three foot shoulders and an 18 foot overall bridge width in lieu of the required 22 foot width, and 60 and 75 foot radius for horizontal curves at 0.02 super elevation in lieu of the required 110 foot radius curves at 0.06 super elevation, all of which requires a variance from the commissioner of transportation in accordance with Minnesota Rules Chapter 8820.3300.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth requests the commissioner of transportation for a variance from Minnesota Rules Chapter 8820, whereby the urban state aid standards be reduced for this project allowing for a nine foot three inch lane width and one foot shoulders in lieu of the required 11 foot lane width and three foot shoulders, an 18 foot overall bridge width in lieu of the required 22 foot width, and 60 and 75 foot radius horizontal curves at 0.02 super elevation in lieu of the required 110 foot radius curves at 0.06 super elevation, and further provided that if the commissioner grants the variance that the city of Duluth hereby agrees to indemnify, save, and hold harmless the state of Minnesota and its agents and employees from any and all claims, demands, actions, or causes of action arising out of or by reason of the reconstruction of Minnesota Bridge No. L8506 on Seven Bridges Road over Amity Creek in the city of Duluth in any manner other than in accordance with Minnesota Rule 8820.9920, and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim or whatsoever arising as a result of the granting of this variance.

Resolution 02-0775 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 01-0368 to L.H.B. Engineers and Architects for professional engineering services for the design of retaining wall on 13th street between Central Entrance to 655 feet westerly, be amended to increase the amount by \$2,009.50 for a new total of \$8,635.50, payable out of Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0101, Object 5530.

Resolution 02-0777 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BY COUNCILOR STOVER:

RESOLVED, that Resolution 01-0615 to Johnson Brothers Corporation, for the rehabilitation of Bridge Number L6114 on Ninth Street over Chester Creek, be amended to increase the amount by \$600,000 for a new total of \$1,793,133.94, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2133, Object 5530; to be reimbursed by Federal TEA 21 in the amount of \$1,245,722.66; State Transportation Fund 29 in the amount of \$227,225.65 and municipal state aid in the amount of \$320,185.94.

Resolution 02-0779 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute a joint powers agreement with the Western Lake Superior Sanitary District, filed as Public Document No. 02-1125-20, for the disposal and transportation of sewer grit at the licensed BFI landfill in Sarona, Wisconsin.

Resolution 02-0785 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

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 Upham Road from Blackman Avenue to 100 feet east of Blackman Avenue.

Resolution 02-0758 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

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

front of 321 North 46th Avenue West

front of 621 North 46th Avenue West

front of 629 Spear Avenue

front of 1022 85th Avenue West

Resolution 02-0765 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an amendment to Agreement No. 18812 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, 2003, through December 31, 2003.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

RESOLVED FURTHER, that monies collected under said contract shall be deposited in Federal Program Fund 0272, Dept/Agency 031, Organization 6303.

Resolution 02-0763 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 02-0768, by Councilor Stenberg, vacating a portion of 64th Avenue West from Redruth Street to the southerly boundary of the abandoned Burlington Northern Railroad right-of-way (Habitat for Humanity), was introduced for discussion.

Councilors Stover and Hogg expressed concerns that this vacation should not be decided before the comprehensive plan is adopted because this property is very important to the neighborhood; the neighborhood opposes this vacation and the proposed planning and planning staff has not addressed concerns that have been noted.

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

- - -

BY PRESIDENT NESS:

RESOLVED, that the proper city officers are authorized to execute an agreement, filed as Public Document No. 02-1125-21, with the Over the Hill Night Riders Snowmobile Club for the grooming and maintenance of the western portion of the cross city snowmobile trail for an amount not to exceed \$9,500; payable from Fund 0100-500-2010-5441.

Resolution 02-0782 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that the proper city officers are authorized to execute an agreement, filed as Public Document No. 02-1125-22, with the Drift Toppers Snowmobile Club for the grooming and maintenance of the eastern portion of the cross city snowmobile trail for an amount not to exceed \$9,500; payable from Fund 0100-500-2010-5441.

Resolution 02-0783 was unanimously adopted.

Approved November 25, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0821, by President Ness and Councilors Hogg and Stewart, naming bridge over St. Louis River "BI-AUS-WAH Bridge" and erecting commemorative plaque, was introduced for discussion.

Councilor Hogg moved to table the resolution for legal clarification as to why this was not completed in 1986, which motion was seconded and unanimously carried.

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR STOVER

02-044 - AN ORDINANCE PERTAINING TO THE PLANNING COMMISSION, REQUIRING ALL PLANNING COMMISSION MEETINGS TO START AFTER 5:00 P.M., AMENDING SECTION 4 OF ORDINANCE NO. 1809.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Councilor Stover 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 ordinance.

Kay L. Lewis expressed support because those who wish to come to the meetings do not have to leave their work and that this might better help communication between the planning commission and neighborhood planning districts.

President Ness moved to retable the ordinance, which motion was seconded and unanimously carried.

- - -

The following entitled ordinances were read for the first time:

BY COUNCILOR ATKINS

02-055 - AN ORDINANCE PERTAINING TO LAWFUL GAMBLING IN THE CITY OF DULUTH; AMENDING VARIOUS REGULATIONS; AMENDING SECTIONS 8-24, 10A-2, 10A-3, 10A-4, 10A-5, 10A-12, AND 10A-20 AND REPEALING SECTION 10A-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR STENBERG

02-056 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO SALVATION ARMY FOR AWNINGS IN THE WEST SUPERIOR STREET AND 21ST AVENUE WEST RIGHT-OF-WAY ADJACENT TO 2101 WEST SUPERIOR STREET.

- - -

BY PRESIDENT NESS, COUNCILORS HOGG AND STEWART

02-065 - AN ORDINANCE NAMING BRIDGE OVER ST. LOUIS RIVER "BI-AUS-WAH BRIDGE" AND ERECTING A COMMEMORATIVE PLAQUE.

- - -

BY COUNCILOR STOVER

02-054-O - AN ORDINANCE DEDICATING AN EASEMENT FOR PUBLIC STREET AND HIGHWAY PURPOSES.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR STEWART

02-037 - AN ORDINANCE AMENDING THE REGULATIONS FOR THE DEMOLITION OF HAZARDOUS BUILDINGS; AMENDING SECTION 10-3 AND REPEALING IN ITS ENTIRETY SECTION 10-7 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Stewart moved to table the ordinance, upon the administration's request, which motion was seconded and unanimously carried.

- - -

The meeting was adjourned at 9:40 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 2, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-1202-01 Duluth economic development authority submitting petition to vacate 12 easements in Block 3, Oneota Industrial Park First Addition. -- Assessor

02-1202-02 Housing and redevelopment authority submitting petition to reclassify to TND property located at Second Avenue West, 13th Street to the north, Central Road to the east and 11th Street to the south. -- Assessor

02-1202-03 The following submitting communications regarding the Bayfront master plan (02-0655R(a)): (a) Peg Apka/Jim Suttie; (b) Duluth Chamber of Commerce; (c) Sharon Eck; (d) Mary Jane Evans; (e) Kristi Link Fernholz; (f) Esther Gieschen; (g) Linda Herron; (h) Stacy Johnson; (i) Alden Kendall/Evelyn Timm; (j) Barry LeBlanc; (k) Tom Livingston; (l) Clayton Oslund; (m) Robert and Linda Powless; (n) Ann Russ; (o) Deb Shubat; (p) Jean Wiseheart (2). -- Received

- - -

REPORTS OF OFFICERS

02-1202-04 Assessor submitting letters of sufficiency of petitions to:

(a) Construct 290 lineal feet of sanitary sewer within Petre Street beginning at the intersection of 64th Avenue West and extending easterly;

(b) Reclassify from R-1-b to TND property located at Second Avenue West, 13th Street to the north, Central Road to the east and 11th Street to the south;

(c) Reclassify from R-1-c to R-3 Lots 9 - 16 and Lots 25 - 32, Block 9, Chandler Park Addition; and Lots 5 - 8, Block 9, Hazelwood Park;

(d) Remove 200 feet of sidewalk beginning at 2213 Sussex Avenue and ending at 2207 Sussex Avenue (Lots 23 - 26, Block 1, Kenilworth Park Addition);

(e) Vacate the platted but undeveloped alleyway between Lots 34 and 1 - 5, Block 3, and Tromsoe Road which fronts Lots 32 - 34 and Lot 1, Block 3, Home Builders Park. -- Received

02-1202-05 Community development and housing division manager submitting HRA housing rehabilitation report for September 2002. -- Received

02-1202-06 Parks and recreation department director submitting Lake Superior zoological society minutes of September 25, 2002, minutes. -- Received

02-1202-12 Purchasing agent submitting emergency purchase order awarded to Letourneau and Sons for the repair of a collapsed sanitary sewer in the alley at 60th Avenue West between Olney and Tacony streets. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-1202-07 Building appeal board minutes of September 11, 2002, meeting. -- Received

02-1202-08 Duluth airport authority minutes of October 15, 2002, meeting. -- Received

02-1202-09 Duluth/North Shore sanitary district board minutes of November 12, 2002, meeting. -- Received

02-1202-10 Duluth state convention center administrative board minutes of October 28, 2002, meeting. -- Received

02-1202-11 Duluth transit authority: (a) Financial statement for September 2002; (b) Minutes of October 2, 2002, meeting. -- Received

02-1202-13 Housing and redevelopment authority minutes of October 4, 2002, meeting. -- Received

- - -

At this time, 7:05 p.m., President Ness called the 2003 budget and levy public hearing to order.

No one appeared who wished to be heard and the public hearing was adjourned at 7:10 p.m.

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

KL Lewis suggested that the city make snow for the Bayfront area so there could be a snow play area, which would help out the aquarium.

- - -

RESOLUTIONS TABLED

Councilor Stenberg moved to remove Resolution 02-0655(a), adopting the Bayfront master plan, except the living water garden and grant securement portion, as a guideline for the future redevelopment of the Bayfront area, from the table, which motion was seconded and unanimously carried.

Councilor Stenberg moved to also consider Resolution 02-0825 at this time, which motion was seconded and unanimously carried.

Resolution 02-0825, by Councilor Gilbert, amending the Bayfront master plan, was introduced for discussion.

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

Jill Jacoby strongly encouraged the expansion of the living water garden and for the city to think big, as the more land used for the living water garden, the more stormwater that can be treated from Slip 2.

KL Lewis reviewed the history of the Bayfront and encouraged the council to approve the master plan.

Barry LeBlanc questioned the role of the marina in the plan and if there was enough parking for the marina as there is a shortage of parking now. He continued by saying that the charter business needs to be recognized as an economic factor in the city and should be a part of the master plan.

Jean Wiseheart voiced her concern of putting a conservatory near Railroad Street. She added that the building would need to have some sort of display lighting to draw people to the facility.

Peggy Marrin encouraged the council to make use of all of the nine acres and make this vision a reality.

Candace Richards stated that she is glad that the council is holding off on making a decision, as pedestrian access is a huge part of this master plan.

Bob Krumwiede, Bayfront visions group president, stated that the Pier 9 option is the still the best option, as this would hold Bayfront together and would furnish the land needed to make this plan be a first class operation.

Dick Haney stated that the plans have changed during the past few years, and that the skywalk is a critical part of the plan.

Iver Bogen stated it is too premature for the council to make a decision on this project and suggested that Kent Worley, a local landscape architect, be paid by the council to do a plan for Bayfront.

President Ness stated that the council intends to refer both resolutions to the administration because the city and the Bayfront visions group needs to receive more input on ideas for the area from various groups. He continued by saying that the council would like to have a new resolution from the administration outlining a new master plan.

Councilor Atkins moved to refer both resolutions to the administration, which motion was seconded and unanimously carried.

- - -

At this time, 7:40 p.m., President Ness called to order the public hearing continuation on the Ramsey/Irving Townhomes housing revenue bond.

No one appeared who wished to be heard and the public hearing was adjourned at 7:42 p.m.

- - -

Councilor Hogg moved to consider Resolution 02-0809 at this time, which motion was seconded and unanimously carried.

Resolution 02-0809, by Councilor Gilbert, approving the issuance and sale of multifamily housing revenue bonds, Series 2002 (Irving Townhomes, LLC, project), authorizing the execution of documents relating thereto, and transferring issuer fee to DEDA, was introduced to discussion.

Resolution 02-0809 was adopted as follows:

BY COUNCILOR GILBERT:

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

Section 1. Recitals. It is hereby found, determined and declared as follows:

(a) Under and pursuant to Minnesota Statutes, Chapters 462A and 462C, as amended (the act), the issuer is authorized to finance housing programs or developments, upon approval of a housing program as provided in Section 462C.04, subd. 2 of the act, and issue and sell revenue obligations which are payable exclusively from revenues of the housing program or development;

(b) Representatives of Irving Townhomes, LLC, a Minnesota limited liability company (the company), have proposed a multifamily housing development under the act for persons of low and moderate income, subject to the limitations set forth in Section 142(d) of the Internal Revenue Code of 1986, as amended (the code). The company desires to finance a project that consists of constructing and equipping 44 rental townhouse units. Thirty units of the project will be located on the north side of Nicollet Street bordered by 57th Avenue West, and 14 units of the project will be located at the intersection of Ramsey Street and 53rd Avenue West in the city. The company has requested that the issuer issue its \$4,500,000 Multifamily Housing Revenue Bonds, Series 2002 (Irving Townhomes LLC Project) (the bonds), to finance the project described above, as well as a portion of the costs of issuance of the bonds (the project);

(c) Pursuant to Resolution No. 02-0547 adopted August 8, 2002, the council gave preliminary approval to the project and approved the application to obtain bond allocation pursuant to Minnesota Statutes Chapter 474A (the Minnesota Bond Allocation Act);

(d) The issuer received Certificate of Allocation Number 023 from the Minnesota department of finance, issued pursuant to the Minnesota Bond Allocation Act, in the amount of \$4,500,000 for the project;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

(e) Pursuant to the act, the issuer has prepared a multifamily housing development program for the project (the program) and submitted the program to Arrowhead Regional Development Commission pursuant to the requirements of Section 462C.04, Subd. 2 of the act. No comments on the program were received from the Arrowhead Regional Development Commission;

(f) As required by Section 462C.04, subd. 2 of the act and Section 147(f) of the code, the issuer has, on November 25, 2002, held a public hearing on the program and the issuance of the bonds and the proposal to undertake and finance the project, at which all those appearing who desired to speak were heard and written comments were accepted;

(g) Dougherty & Company LLC, the underwriter for the bonds (the underwriter), has requested that the bonds be eligible for services provided by The Depository Trust Company, New York, New York (DTC);

(h) The following documents have been submitted to this council and are on file in the office of the city clerk (the issuer documents):

(1) A loan agreement, to be entered into between the issuer and the company (the loan agreement), pursuant to which the company agrees to repay the loan of the proceeds of the bonds in specified amounts and at specified times sufficient to pay in full when due the principal of, premium, if any, and interest on the bonds. In addition, the loan agreement contains provisions relating to the payment by the company of certain administrative and legal costs of the issuer and indemnification, insurance, and other agreements and covenants which are required or permitted by the act and which the issuer and the company deem necessary or desirable for financing the project;

(2) An indenture of trust(the indenture), to be entered into between the issuer and Wells Fargo Bank Minnesota, National Association, Minneapolis, Minnesota, as trustee (the trustee), pursuant to which the issuer pledges and grants a security interest in all of its right, title and interest in the loan agreement (except for certain rights to fees, reimbursement of certain costs and expenses and for indemnification) to the trustee. Under the indenture, the bonds and the interest on the bonds shall be payable solely from the revenue pledged therefor and the bonds shall not constitute a debt of the issuer within the meaning of any constitutional or statutory limitation nor shall constitute nor give rise to a pecuniary liability of the issuer or a charge against its general credit or taxing powers and shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the issuer other than the issuer's interest in the loan agreement;

(3) A bond purchase agreement among the issuer, the company and the underwriter (the bond purchase agreement) pursuant to which the underwriter has offered to purchase the bonds from the issuer;

(4) The form of the bonds; and

(5) A regulatory agreement, between the issuer and the company, pursuant to which the company has agreed to make a portion of the units in the project available to tenants at or below certain income limits and with certain rent restrictions;

(i) The company has approved the terms of the bonds. The company has approved the issuer documents.

Section 2. Findings. The issuer finds, determines and declares that the provision of affordable housing for persons of low and moderate income is a public purpose. The program is hereby approved. The issuance and sale of the bonds by the issuer, pursuant to the act, is in the best interest of the issuer, and the issuer hereby determines to issue the bonds and to sell the bonds to the underwriter pursuant to the bond purchase agreement. The issuer will loan the proceeds of the bonds to the company in order to finance the project.

Section 3. The bonds.

(a) In order to provide for the financing of the project, the issuer hereby authorizes the issuance of the bonds in the maximum principal amount of \$4,500,000, in one or more series, with a maximum interest rate in effect on the date of closing and delivery of the bonds of seven percent per annum for any maturity of the bonds, subject to adjustment as provided in the indenture and with a maximum final maturity date of December 1, 2047. The foregoing terms are subject to minor deviations as may be approved by the mayor and city clerk on the advice of counsel to the issuer. The bonds shall be in substantially the form prescribed in the indenture and shall be dated, mature in the years and amounts, be subject to redemption prior to maturity, bear interest at rates specified in the bond purchase agreement and have such other details and provisions as therein specified;

(b) The issuer hereby authorizes and directs the execution of the bonds in accordance with the terms of the indenture, and hereby provides that the indenture shall provide the terms and conditions, covenants, rights, obligations, duties and agreements of the owners of the bonds, the issuer and the trustee as set forth therein;

(c) The bonds shall be revenue obligations of the issuer, the proceeds of which shall be disbursed pursuant to the indenture and the loan agreement, and the principal, premium and interest on the bonds shall be payable solely from the proceeds of the bonds and revenues derived from the loan agreement and the other sources set forth in the indenture. The bonds will be a special limited obligation of the issuer;

(d) The bonds shall not be payable from or charged upon any funds other than the revenues pledged to the payment thereof, nor shall the issuer be subject to any liability thereon. No holder of the bonds shall ever have the right to compel any exercise of the taxing power of the Issuer to pay the bonds or the interest thereon, nor to enforce payment thereof against any property of the issuer. The bonds shall not constitute a debt of the issuer within the meaning of any constitutional or statutory limitation. The bonds will not constitute an indebtedness, a pecuniary liability, a moral or general obligation or a loan of the credit of the issuer or a charge, lien or encumbrance, legal or equitable, against the issuer's property, general credit or taxing powers;

(e) The bonds, when executed and delivered, shall contain a recital that they are issued pursuant to the act, and such recital shall be conclusive evidence of the validity of the bonds and the regularity of the issuance thereof, and that all acts, conditions and things required by the laws of the state relating to the adoption of this resolution, to the issuance of the bonds and to the execution of the aforementioned documents to happen, exist and be performed precedent to and in the enactment of this resolution, and precedent to issuance of the bonds and precedent to the execution of the aforementioned documents have happened, exist and have been performed as so required by law.

Section 4. Approval and execution of documents and certificates.

(a) The issuer documents and the bonds 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;

(b) The mayor and the city clerk are authorized and directed to execute, acknowledge, and deliver the issuer documents and the bonds on behalf of the issuer with such changes, insertions and omissions therein as the issuer's attorney may hereafter deem appropriate, such execution to be conclusive evidence of approval of such documents in accordance with the terms hereof;

(c) The mayor, the city clerk and the city treasurer are authorized and directed to execute and deliver all other documents which may be required under the terms of the issuer documents or the bonds 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;

(d) The mayor, the city clerk, the treasurer and other officers of the issuer are authorized to furnish to the underwriter, the trustee, the company, and bond counsel certified copies of all proceedings and records of the issuer relating to the bonds, and such other affidavits and certificates as may be required to show the facts relating to the legality and marketability of the bonds 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 issuer as to the truth of all statements contained therein;

(e) In the event that for any reason the mayor, the city clerk, the secretary or the treasurer are unable to carry out the execution of any of the documents or other acts provided herein, any other officer of the issuer or member of its council, as in the opinion of the issuer's attorney, are authorized to act in that capacity and undertake such execution or acts on behalf of the issuer, 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 officers, with full force and effect, which executions or acts shall be valid and binding on the issuer;

(f) The officers of the issuer, attorneys, and other agents or employees of the issuer are hereby authorized to do all acts and things required of them by or in connection with this resolution, the aforementioned documents, and the bonds for the full, punctual and complete performance of all the terms, covenants and agreements contained in the bonds, the aforementioned documents and this resolution.

Section 5. Appointment of bond registrar. The trustee is hereby appointed as paying agent, bond registrar, authenticating agent and transfer agent for the bonds.

Section 6. Limited offering memorandum. The issuer has not participated in the preparation of the limited offering memorandum relating to the bonds (the limited offering memorandum), and has made no independent investigation with respect to the information contained therein, including the appendices thereto, and the issuer assumes no responsibility for the sufficiency, accuracy or completeness of such information. Subject to the foregoing, the issuer hereby consents to the distribution and the use by the underwriter in connection with the sale of the bonds of the limited offering memorandum in the form on file with the issuer. The limited offering memorandum contains the sole materials consented to by the issuer for use in connection with the offer and sale of the bonds.

Section 7. Covenants; limitations.

(a) All covenants, stipulations, obligations and agreements of the issuer contained in this resolution and the aforementioned issuer documents shall be deemed to be the covenants, stipulations, obligations and agreements of the issuer to the full extent authorized or permitted by law, and all such covenants, stipulations, obligations and agreements shall be binding upon the issuer. Except as otherwise provided in this resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the issuer or its council by the provisions of this resolution or of the aforementioned documents shall be exercised or performed by the issuer or by such members of the issuer, or such officers thereof as may be required or authorized by law to exercise such powers and to perform such duties;

(b) No covenant, stipulation, obligation or agreement herein contained or contained in the aforementioned documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member of the issuer, or any officer, agent or employee of the issuer in that person's individual capacity, and neither the issuer nor any officer or employee executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof;

(c) No provision, covenant or agreement contained in the aforementioned documents, the bonds or in any other document related to the bonds, and no obligation therein or herein imposed upon the issuer or the breach thereof, shall constitute or give rise to any pecuniary liability of the issuer or any charge upon its general credit or taxing powers. In making the agreements, provisions, covenants and representations set forth in such documents, the issuer has not obligated itself to pay or remit any funds or revenues, other than funds and revenues derived from the loan agreement or other sources set forth in the indenture which are to be applied to the payment of the bonds, as provided therein and in the indenture;

(d) Except as herein otherwise expressly provided, nothing in this resolution or in the aforementioned documents, expressed or implied, is intended or shall be construed to confer upon any person or firm or corporation, other than the issuer or any owner of the bonds issued under the provisions of this resolution, any right, remedy or claim, legal or equitable, under and by reason of this resolution or any provision hereof, this resolution, the aforementioned documents and all of their provisions being intended to be and being for the sole and exclusive benefit of the issuer and any owner from time to time of the bonds issued under the provisions of this resolution.

Section 9. Assignment and transfer of issuer fee. Pursuant to Section 4.08 of the loan agreement, the issuer is charging the company a fee in consideration of the issuance of the bonds. The issuer hereby transfers, sets over and assigns all its right, title and interest in such fees to the Duluth economic development authority (DEDA) for deposit into the housing development fund, for further use by DEDA in the promotion and development of low and moderate income housing units to serve the residents of the city of Duluth.

Section 10. Severability. In case any one or more of the provisions of this resolution, or of the aforementioned documents, or of the bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this resolution, or of the aforementioned documents, or of the bonds, but this resolution, the aforementioned documents, and the bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein.

Resolution 02-0809 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

Councilor Stenberg moved to remove Resolution 02-0768, vacating a portion of 64th Avenue West from Redruth Street to the southerly boundary of the abandoned Burlington Northern railroad right-of-way (Habitat for Humanity), from the table, which motion was seconded and unanimously carried.

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

John Hawley reviewed that Habitat for Humanity has until December 31, 2002, to use a \$10,000 grant for this project and urged the council to pass the resolution tonight in order for them to receive their building permits and be able to move forward with the construction.

Councilor Hogg stated that the physical planning division and the neighborhood will be meeting to resolve some issues and that this would be voted on at the next meeting.

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

Yeas: Councilors Atkins, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 8

Nays: Councilor Bergson -- 1

- - -

Councilor Hogg moved to remove Resolution 02-0821, by President Ness and councilors Hogg and Stewart, to submit and facilitate naming bridge over St. Louis River "Bi-aus-wah Bridge" and erecting commemorative plaque, from the table, which motion was seconded and unanimously carried.

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

Greg Price urged councilors to move forward with this as Congressman Oberstar is willing to sponsor legislation in Congress which would honor Native American veterans.

Resolution 02-0821 was adopted as follows:

BY PRESIDENT NESS, COUNCILORS HOGG AND STEWART:

WHEREAS, the state highway which has been named by the state as the Veterans Evergreen Memorial Drive crosses the St. Louis River and runs through the historic land of the Ojibway people and commemorates the contributions of all American veterans; and

WHEREAS, the Ojibway Chief Bi-aus-wah gave his life so that his young son could live, and that he and his son are remembered for their heroic deeds and leadership to their people during the early 1700's, and that their contribution and the contributions of the Ojibway people are part of our region's heritage; and

WHEREAS, Native American people have served with distinction in the armed services of the United States.

NOW, THEREFORE, BE IT RESOLVED, that in recognition and appreciation for the sacrifices of all Native American veterans, the city strongly requests and recommends that the state, and any other proper government units, name the bridge that spans the St. Louis River the "Bi-aus-wah Bridge."

BE IT FURTHER RESOLVED, that the city authorizes the proper city officials to immediately do all acts necessary to cause the naming of the Bi-aus-wah Bridge, and to provide in kind assistance in erecting a commemorative plaque.

BE IT FURTHER RESOLVED, that the city hereby establishes a special account to receive gifts and donations to be used for funding the cost of such a commemorative plaque, and authorizes acceptance of gifts and donations made for such purpose.

Resolution 02-0821 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BY COUNCILOR HOGG:

RESOLVED, that the operating budget for the fiscal year January 1, 2003, to December 31, 2003, in the amount of \$3,252,259 for the Duluth airport authority is hereby approved.

BE IT FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 15 of each year.

Resolution 02-0801 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the operating budget for the fiscal year January 1, 2003 to December 31, 2003, for Duluth Steam District No. 2 in the amount of \$5,918,945 is hereby approved.

Resolution 02-0802 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Waste Management of Northern Minnesota be and hereby is awarded a contract for garbage/refuse removal at various city of Duluth buildings and locations as needed for year 2003 for the various departments and divisions in accordance with specifications at an estimated amount of \$96,100, terms net 30, FOB job site, payable out of various funds, departments/agencies, organizations, objects.

Resolution 02-0815 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to execute an administrative services agreement with SuperiorUSA Benefits Corporation to provide communication, implementation and management of a flexible benefits plan for city employees for year 2003, 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. 02-1202-14, on file with the city clerk, at an estimated cost of \$12,352, which shall be paid from the General Fund 0100, Agency 700, Org. 1479.

Resolution 02-0819 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of carpenter, which were approved by the civil service board on November 18, 2002, and which are filed with the city clerk as Public Document No. 02-1202-15, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 29, \$3,022 to \$3,585 per month.

Resolution 02-0788 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

- - -

BY COUNCILOR STENBERG:

RESOLVED, that Duluth economic development authority (DEDA) Resolution 02D-59, approved by the DEDA board at its meeting of November 19, 2002, a copy of which is on file in the office of the city clerk as Public Document No. 02-1202-16, is hereby approved as required by Resolution No. 02-0606.

Resolution 02-0798 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement, filed as Public Document No. 02-1202-17, between the city of Duluth and the city of Hibbing for the use of a walking excavator and an operator from Duluth to be used for ditch cleaning in Hibbing for a consideration of \$48.16 per hour for the excavator and \$31.69 per hour for the operator plus lodging. Monies collected under this contract shall be deposited in Storm Water Utility Fund 535, Org. 1945.

Resolution 02-0820 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to pay to Legion Insurance company, as subrogee of Sky Venture, LLC, the sum of \$130,729.97 in full and final settlement of the claim which arose out of an automobile accident; payment to be made from the Self Insurance Fund 0610.

Resolution 02-0799 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED that the proper city officers are hereby authorized to accept a temporary construction and fill easement, hereinafter described, from John Hovland and Lane Hovland; said easement necessary to facilitate construction of streets, utilities, sidewalks and street lighting in Northridge Estates and described as follows:

Parcel 1: All that part of Lots 1 through 39, inclusive, Northridge Estates, lying within 30 feet of the right-of-way of Northridge Drive and Northridge Lane, all according to the recorded plat thereof; and

Parcel 2: All that part of Lots 25 through 30, inclusive, Northridge Estates, according to the recorded plat thereof, lying within 70 feet of the right-of-way of Northridge Drive.

Resolution 02-0804 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to accept a wetlands mitigation easement, hereinafter described, from John Hovland and Lane Hovland; said easement

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

to be made in the form filed as Public Document No. 02-1202-18 described as follows:

that part of Outlot B, Northridge Estates, described as follows:

beginning at the northwest corner of Lot 15, Block 1 of the recorded plat of Northridge Estates, thence north 70°-05'-16" east, along the northerly line of Lots 15, 14 and 13 of said Block 1, a distance of 533.66 feet to the northeast corner of said Lot 13; thence north 55°-26'-16" west a distance of 299.26 feet; thence north 90°-00'-00" west a distance of 425.92 feet; thence south 25°-53'-22" east a distance of 390.74 feet to the point of beginning.

Resolution 02-0805 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct 290 feet of sanitary sewer in Petre Street beginning at the intersection of 64th Avenue West and extending easterly.

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

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

Resolution 02-0808 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Brissman-Kennedy, Inc., be and hereby is awarded a contract for furnishing and delivering two high pressure washers for the utility operations division in accordance with specifications on its low specification bid of \$28,105.35, terms net 30, FOB destination, payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5580.

Resolution 02-0813 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to accept an underground natural gas line easement, hereinafter described, from Duluth United, LLC; said easement to be made in the form filed as Public Document No. 02-1202-19 and described as follows:

under and across the following described Parcel I lying northwesterly of the following described line A:

Parcel I. That part of the Southeast Quarter of Section 8, Township 50 North, Range 14 West, St. Louis County, Minnesota described as follows:

commencing at the southeast corner of the Southeast Quarter of said Section 8, Township 50 North, Range 14 West; thence north 01 degrees 07 minutes 34 seconds west, assumed bearing, along the east line of the said Southeast Quarter, a distance of 1021.73 feet to the point of beginning of the land to be described; thence south 54 degrees 27 minutes 13 seconds west, a distance of 191.55 feet to the northerly right-of-way line of C.S.A.H. No. 4; thence northwesterly along said right-of-way line which is along a curve concave to the southwest, a

distance of 315.29 feet, said curve has a radius of 1220.92 feet and a central angle of 14 degrees 47 minutes 46 seconds and a chord that bears north 44 degrees 30 minutes 41 seconds west; thence north 51 degrees 54 minutes 34 seconds west, continuing along said right-of-way line a distance of 178.98 feet; thence north 38 degrees 05 minutes 26 seconds east, a distance of 250.00 feet; thence north 23 degrees 55 minutes 28 seconds east, a distance of 60.00 feet; thence north 38 degrees 05 minutes 26 seconds east, a distance of 350.00 feet; thence north 63 degrees 41 minutes 50 seconds east, a distance of 119.23 feet to the east line of the said Southeast Quarter, thence south 01 degrees 07 minutes 34 seconds east, along said east line of the Southeast Quarter, a distance of 803.32 feet to the point of beginning.

Line A. Commencing at the southeast corner of the Southeast Quarter of said Section 8, Township 50 North, Range 14 West, thence north 01 degrees 07 minutes 34 seconds West, assumed bearing, along the east line of the said Southeast Quarter, a distance of 1021.73 feet; thence south 54 degrees 27 minutes 13 seconds west, a distance of 191.55 feet to the northerly right-of-way line of C.S.A.H. No. 4; thence northwesterly along said right-of-way line, which is along a curve concave to the southwest, a distance of 315.29 feet, said curve has a radius of 1220.92 and a central angle of 14 degrees 47 minutes 46 seconds and a chord that bears north 44 degrees 30 minutes 41 seconds west; thence north 51 degrees 54 minutes 34 seconds west continuing along said right-of-way line a distance of 168.98 feet to the point of beginning of the line to be described; thence north 38 degrees 05 minutes 26 seconds east a distance of 709.68 feet to a northwesterly line of said Parcel I, and said line terminating.

Resolution 02-0816 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0553 to Midway Contractors, Inc., for the construction of sanitary and storm sewer repairs in Grand Avenue from Elinor Street to 57th Avenue West be amended to increase the amount by \$178,122.00 for a new total of \$564,428.30 payable out of the Storm Sewer Fund 0535, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 02-0818 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute an amendment (Public Document No. 02-1202-20) to an agreement approved in Resolution 02-0511, city Contract No. 19303, between the city of Duluth and the Duluth Seaway Port authority for the construction of street improvements to be known as the Arthur Avenue project to add \$32,500 to the contract amount so that the maximum consideration to be paid by the city under this agreement will be \$100,500; payable from the Permanent Improvement Fund 0411, to be reimbursed from the MSA fund.

Resolution 02-0822 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are authorized to enter into a grant agreement and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

accept a grant of up to \$100,000 from the U.S. department of justice, national institute of justice, to continue participation in the corrections and law enforcement family support program through December 31, 2003; said grant filed as Public Document No. 02-1202-21.

RESOLVED FURTHER, that grant monies received pursuant to this grant shall be deposited in Police Grant Program Fund 0215, Agency 200, Org. 2465.

Resolution 02-0792 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement, filed as Public Document No. 02-1202-22, between the city of Duluth and Miller Dwan Medical Center for the purpose of providing services to the corrections and law enforcement family support program of the city, at a cost not to exceed \$38,000, to be paid from Police Grant Program Fund 0215, Agency 200, Organization 2465, Object 5319.

Resolution 02-0793 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement, filed as Public Document No. 02-1202-23, between the city of Duluth and Jeff Thompson, Innovations in Quality Consulting, for the purpose of providing services to the corrections and law enforcement family support program of the city, at a cost not to exceed \$15,000, with up to \$8,000 to be paid from Police Grant Program Fund 0215, Agency 200, Organization 2465, Object 5319, and up to \$7,000 to be paid from Police Grant Program Fund 0215, Agency 200, Organization 2464, Object 5319.

Resolution 02-0794 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement, filed as Public Document No. 02-1202-24, between the city of Duluth and X. Dennis Swenson for the purpose of providing services to the corrections and law enforcement family support program of the city at a cost not to exceed \$10,000, with up to \$8,000 to be paid from Police Grant Program Fund 0215, Agency 200, Organization 2465, Object 5319, and up to \$2,000 to be paid from Police Grant Program Fund 0215, Agency 200, Organization 2464, Object 5319.

Resolution 02-0795 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

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. 02-1202-25, under which agreement the city will receive up to \$2,200 to reimburse it for costs incurred in maintaining cross country ski trails in the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

city of Duluth during the 2002-2003 ski season. The reimbursement shall be deposited in General Fund 0100, Agency 500, Org. 1920, Revenue Source 4232.

Resolution 02-0817 was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 02-0800, by Councilor Hogg, approving the fiscal year January 1, 2003, to December 31, 2003, operation budget of the Duluth transit authority, was introduced for discussion.

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

- - -

Resolution 02-0803, by Councilor Hogg, distributing the estimated 2003 tourism taxes of hotel-motel and food and beverage, was introduced for discussion.

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

- - -

Resolution 02-0827, by Councilor Stewart, referring an ordinance to the planning commission that would allow for A-frame signs under certain circumstances, was introduced for discussion.

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

KL Lewis voiced concern that the signs may be placed where the sidewalk is narrow and could obstruct pedestrian traffic.

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

“BE IT FURTHER RESOLVED, that the council intends that this change be temporary until a full review of the city sign ordinance can be undertaken and the council requests that the administration begin that process promptly,” which motion was seconded and unanimously carried.

Resolution 02-0827, as amended, was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that pursuant to Section 44-35(c) of the Duluth City Code, the Duluth City Council hereby refers the ordinance filed as Public Document No. 02-1202-26, which amends Duluth’s sign ordinance to allow for A-frame signs under certain circumstances, to the Duluth planning commission for consideration and approval.

BE IT FURTHER RESOLVED, that the council intends that this change be temporary until a full review of the city sign ordinance can be undertaken and the council requests that the administration begin that process promptly.

Resolution 02-0827, as amended, was unanimously adopted.

Approved December 2, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0824, by Councilor Gilbert, putting a moratorium on the payment of city funds to the Great Lakes Aquarium, was introduced for discussion.

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

KL Lewis stated that in the long run the city will be happy that it kept the aquarium and added that the money needed to keep the aquarium open should be spent.

Jean Wiseheart stated that the aquarium board should list the monthly bills that it is paying along with the original invoice and supported the moratorium on giving money to the aquarium.

Peggy Marrin stated that uncomfortable information is not irresponsible behavior and urged support of the moratorium, which would stop enabling a bad project.

To Councilor Bergson's question, City Attorney Brown replied that from the information supplied by the commissioner of administration, the aquarium board is not required to make their expenditures public unless they choose to do so.

Councilors Atkins and Stewart stated that more data is needed from the aquarium in order to make decisions on the future of the aquarium and the council needs to work cooperatively with the aquarium board.

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

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR HOGG

02-059 - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2003 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

- - -

BY COUNCILOR HOGG

02-060 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, SEAWAY PORT AUTHORITY FOR THE YEAR 2003.

- - -

BY COUNCILOR HOGG

02-061 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY FOR THE YEAR 2003.

- - -

BY COUNCILOR HOGG

02-062 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2003.

- - -

BY COUNCILOR STEWART

02-063 - AN ORDINANCE REVISING MASS TRANSIT ZONE ALLOWABLE ACTIVITIES; AMENDING SECTION 45-4.4 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Jean Wiseheart stated that there has been a positive effect on the transit zones Downtown with the passage of the mass transit zone ordinance.

- - -

BY COUNCILOR STOVER

02-057 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF EIGHT PERMANENT HIGHWAY EASEMENTS AND ONE TEMPORARY CONSTRUCTION EASEMENT ADJACENT TO JEAN DULUTH ROAD TO ST. LOUIS COUNTY.

- - -

BY COUNCILOR STOVER

02-058 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF TWO PERMANENT

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

HIGHWAY EASEMENTS AND TWO TEMPORARY CONSTRUCTION EASEMENTS ADJACENT TO JEAN DULUTH ROAD TO ST. LOUIS COUNTY.

- - -

BY COUNCILOR STOVER

02-064 - AN ORDINANCE AUTHORIZING FREE CONVEYANCE OF CERTAIN PROPERTY IN WEST DULUTH TO THE NORTHERN COMMUNITIES LAND TRUST.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR ATKINS

02-055 - AN ORDINANCE PERTAINING TO LAWFUL GAMBLING IN THE CITY OF DULUTH; AMENDING VARIOUS REGULATIONS; AMENDING SECTIONS 8-24, 10A-2, 10A-3, 10A-4, 10A-5, 10A-12, AND 10A-20 AND REPEALING SECTION 10A-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Atkins moved to table the ordinance for a December 9, 2002, committee meeting, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR STENBERG

02-056 (9573) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO SALVATION ARMY FOR AWNINGS IN THE WEST SUPERIOR STREET AND 21ST AVENUE WEST RIGHT-OF-WAY ADJACENT TO 2101 WEST SUPERIOR STREET.

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

- - -

BY PRESIDENT NESS AND COUNCILORS HOGG AND STEWART

02-065 - AN ORDINANCE NAMING BRIDGE OVER ST. LOUIS RIVER "BI-AUS-WAH BRIDGE" AND ERECTING A COMMEMORATIVE PLAQUE.

President Ness moved to remove the ordinance from the agenda, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR STOVER

02-054 (9574) - AN ORDINANCE DEDICATING AN EASEMENT FOR PUBLIC STREET AND HIGHWAY PURPOSES.

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

- - -

The meeting was adjourned at 8:40 p.m.

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

- - -

ORDINANCE NO. 9573

BY COUNCILOR STENBERG:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO SALVATION ARMY FOR AWNINGS IN THE WEST SUPERIOR STREET AND 21ST AVENUE WEST RIGHT-OF-WAY ADJACENT TO 2101 WEST SUPERIOR STREET.

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 Salvation Army, their successors and interests, referred to herein as the permittees, to occupy, erect and maintain awnings in that part of West Superior Street and 21st Avenue West as the same was dedicated to the use of the public and the plat of Duluth Proper Second 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: That portion of West Superior Street and 21st Avenue West adjoining Lot 337, Block 52, Duluth Proper Second Division.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk: a duly executed and acknowledged written acceptance of the terms of this ordinance; a certificate of insurance approved as to form by the city attorney evidencing that such person or organization has in force insurance in the minimum amounts of \$300,000 for bodily injuries resulting in any year and \$50,000 property damage in any one year protecting such person or organization and the city of Duluth against liability for injuries or damages resulting from the placement of such objects or materials on public sidewalks or boulevard areas. The permission granted by such ordinance shall be conditioned upon such person or organization continuing to supply the city with evidence that such insurance remains in effect and all insurance required herein shall contain a provision that no policy may be canceled until ten days after written notice is given to the city clerk. Such policy shall name the city as an additional insured; and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the Registrar of Titles of St. Louis County, Minnesota.

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

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

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that said awnings shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said West Superior Street and 21st Avenue West 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 said awnings in said West Superior Street and 21st Avenue West.

Section 6. That the permittee shall further install and maintain the awning in accordance with plans submitted by LHB Engineers and Architects, dated October 2, 2002, and entitled "Concurrent Use Permit Request for Awning On Salvation Army Thrift Store - 2101 West Superior Street."

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 12, 2003)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed December 2, 2002
Approved December 2, 2002
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9574

BY COUNCILOR STOVER:

AN ORDINANCE DEDICATING AN EASEMENT FOR PUBLIC STREET AND HIGHWAY PURPOSES.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby dedicates an easement to the public for public street and highway purposes over Lots 1,2,4, and 5, Block 1, Airport Division in St. Louis County, Minnesota; said easement being particularly described as follows:

Lot 1 right-of-way

A permanent easement for highway purposes over, under and across that part of Lot 1, Block 1, Airport Division, located in part of the Southwest Quarter of Southwest Quarter (SW 1/4 of SW 1/4), Section One (1), Township Fifty (50) North, Range Fifteen (15) West of the Fourth Principal Meridian, described as follows:

Beginning at the northeast corner of said Lot 1, thence south 30°-55'-00" west, along the easterly line of said Lot 1, a distance of 92.94 feet; thence southwesterly along a tangential curve concave to the northwest, having a radius of 167.02 feet and a central angle of 04°-01'-50", a distance of 11.75 feet and the chord of said curve bears south 32°-55'-57" west; thence northwesterly along a non-tangential curve concave to the southwest, having a radius of 267.00 feet and a central angle of 24°-46'-48", a distance of 115.48 feet and a chord of said curve bears North 36°-16'-59" west; thence south 88°-42'-00" east along the north line of said Lot 1 a distance of 121.97 feet to the point of beginning.

Lot 2 right-of-way

A 66.00 foot permanent easement for highway purposes over, under and across the part of Lot 2, Block 1, Airport Division, located in part of the Southwest Quarter of Southwest Quarter (SW 1/4 of SW 1/4), Section One (1), Township Fifty (50) North, Range Fifteen (15) West of the Fourth Principal Meridian. The centerline of said easement is described as follows:

Commencing at the northwest corner of said Lot 2, thence south 00°-48'-28" east, along the west line of said Lot 2, a distance of 130.76 feet to the point of beginning of the centerline to be described; thence south 89°-22'-28" east a distance of 228.61 feet to the east line of said Lot 2, and said centerline there terminating.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Lot 4 right-of-way

A permanent easement for highway purposes over, under and across that part of Lot 4, Block 1, Airport Division, located in part of the Southwest Quarter of Southwest Quarter (SW 1/4 of SW 1/4), Section One (1), Township Fifty (50) North, Range Fifteen (15) West of the Fourth Principal Meridian, described as follows:

Beginning at the southwest corner of said Lot 4, thence north 02°-07'-39" east along the west line of said Lot 4, a distance of 74.33 feet; thence north 76°-10'-18" east a distance of 163.53 feet; thence easterly along a tangential curve concave to the south, having a radius of 333.00 feet and a central angle of 26°-58'-50", a distance of 156.81 feet and the chord of said curve bears north 89°-39'-43" east; thence south 01°-18'-00" west, along the east line of said Lot 4, a distance of 121.44 feet; thence north 88°-42'-00" west, along the south line of said Lot 4, a distance of 314.24 feet to the point of beginning.

Lot 5 right-of-way

A permanent easement for highway purposes over, under and across that part of Lot 5, Block 1, Airport Division, located in part of the Southwest Quarter of Southwest Quarter (SW 1/4 of SW 1/4), Section One (1), Township Fifty (50) North, Range Fifteen (15) West of the Fourth Principal Meridian, described as follows:

Beginning at the southwest corner of said Lot 5, thence north 01°-18'-00" east, along the west line of said Lot 5, a distance of 121.44 feet; thence south 78°-12'-51" east a distance of 270.84 feet to the easterly line of said Lot 5; thence south 30°-55'-00" west, along said easterly line, a distance of 83.00 feet; thence north 88°-42'-00" west, along the south line of said Lot 5, a distance of 225.30 feet to the point of beginning.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 12, 2003)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 2, 2002
Approved December 2, 2002
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Special Duluth City Council meeting held on Thursday, December 5, 2002, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Stewart, Stover and Vice President Hogg -- 4

Absent: Councilors Bergson, Gilbert, Stauber, Stenberg and President Ness -- 5

Vice President Hogg stated that there is not a quorum, and therefore, at this time, 5:05 p.m., he moved to adjourn the scheduled special council meeting until 6:30 p.m., in the city council chambers, which motion was seconded and unanimously carried.

- - -

At this time, 6:30 p.m., Vice President Hogg called the special meeting of the Duluth City Council to order.

Roll call: Present: Councilors Atkins, Gilbert, Stauber, Stewart, Stover and Vice President Hogg -- 6

Absent: Councilors Bergson, Stenberg and President Ness -- 5

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-1205-01 Evensen Dodge, Inc., financial and investment advisors, submitting bid results for the following: \$4,635,000 G.O. utilities revenue bonds, Series 2002G; \$2,220,000 G.O. improvement bonds, Series 2002H; \$1,780,000 G.O. equipment certificates of indebtedness, Series 2002I. -- Received

- - -

MOTIONS AND RESOLUTIONS

BY VICE PRESIDENT HOGG:

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

Section 1. Bond purpose and authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Statutes, Section 444.075 and Chapter 475, and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the payment of costs of improvements to the municipal water utility (including bonds representing part of the interest cost of the issue, within the limitations specified in Minnesota Statutes, Section 475.56), which bonds shall be a specific lien upon the water utility and are payable primarily from net revenues to be derived from the operation of the municipal water utility and pledged for their payment.

1.02 The city council has, by Ordinance No. 9565 adopted October 28, 2002, ordered the issuance, sale and delivery of general obligation water utility revenue bonds in the maximum amount of \$1,385,000 of the city, for the payment of the costs of improvements to the municipal water utility and for payment of part of the interest cost of the bonds (the water portion of the bonds).

1.03 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Statutes, Sections 115.46 and 444.075 and Chapter 475, and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the payment of costs of improvements to the municipal sewer utility (including bonds representing part of the interest cost of the issue, within the limitations specified in Minnesota Statutes, Section 475.56), which bonds shall be a specific lien upon the sewer utility and are payable primarily from net revenues to be derived from the operation of the municipal sewer utility and pledged for their payment.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

1.04 The city council has, by Ordinance No. 9566 adopted October 28, 2002, ordered the issuance, sale and delivery of general obligation sewer utility revenue bonds in the maximum amount of \$1,825,000 of the city, for the payment of the costs of improvements to the municipal sewer utility and for payment of part of the interest cost of the bonds (the sewer portion of the bonds).

1.05 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Statutes, Chapter 475, and other pertinent provisions of said Charter and statutes, the city is authorized to issue its general obligation bonds to provide funds for the payment of costs of improvements to the municipal gas utility (including bonds representing part of the interest cost of the issue, within the limitations specified in Minnesota Statutes, Section 475.56), which bonds shall be a specific lien upon the gas utility and are payable primarily from net revenues to be derived from the operation of the municipal gas utility and pledged for their payment.

1.06 The city council has, by Ordinance No. 9567 adopted October 28, 2002, ordered the issuance, sale and delivery of general obligation gas utility revenue bonds in the maximum amount of \$1,425,000 of the city, for the payment of the costs of improvements to the municipal gas utility and for payment of part of the interest cost of the bonds (the gas portion of the bonds).

1.07 The city council has determined that it is necessary and expedient that the city issue such municipal utilities bonds in a single issuance of \$4,635,000 general obligation utilities revenue bonds, Series 2002G (the bonds).

1.08 Evensen Dodge, Inc., financial consultant to the city, has given notification by mail to at least five firms determined by Evensen Dodge, Inc., to be prospective bidders on the bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the bonds. All actions of the mayor, the clerk and Evensen Dodge, Inc., taken with regard to the sale of the bonds are hereby ratified and approved.

1.09 Pursuant to such solicitation for bids for the sale of the bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of U.S. Bancorp Piper Jaffray of Minneapolis, Minnesota (the purchaser), to purchase the bonds at a cash price of \$4,593,285.00, plus accrued interest on the total principal amount from December 1, 2002, to the date of delivery of the bonds and upon condition that the bonds mature and bear interest at the times and annual rates set forth in Section 2. The city, after due consideration, finds such offer reasonable and proper and the offer of the purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the city a contract for the sale of the bonds in accordance with the purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of bonds.

2.01 The bonds to be issued hereunder shall be dated December 1, 2002, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form, and lettered and numbered R-1 and upward. The bonds shall mature on February 1 in the respective years and amounts stated and shall bear interest as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Year	Water Portion of the Bonds	Sewer Portion of the Bonds	Gas Portion of the Bonds	Total	Interest Rate
2004	\$ 65,000	\$ 85,000	\$ 65,000	\$215,000	3.250%
2005	75,000	100,000	75,000	250,000	3.375
2006	80,000	100,000	80,000	260,000	3.500
2007	80,000	105,000	80,000	265,000	3.500
2008	80,000	105,000	85,000	270,000	3.500
2009	85,000	110,000	85,000	280,000	3.500
2010	85,000	115,000	90,000	290,000	3.650
2011	90,000	120,000	95,000	305,000	3.800
2012	95,000	125,000	95,000	315,000	3.850
2013	100,000	130,000	100,000	330,000	4.000
2014	100,000	135,000	105,000	340,000	4.150
2015	105,000	140,000	110,000	355,000	4.250
2016	110,000	145,000	115,000	370,000	4.350
2017	115,000	150,000	120,000	385,000	4.450
2018	120,000	160,000	125,000	405,000	4.550

2.02 (a) The bonds maturing in the years 2004 through 2011 shall not be subject to optional redemption and prepayment before maturity, but those maturing in the year 2012 and in subsequent years shall each be subject to redemption and prepayment at the option of the city on February 1, 2011, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the city and by lot as to the bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date.

(b) In the event any of the bonds are called for redemption, notice thereof identifying the bonds to be redeemed will be given by the bond registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each bond to be redeemed at the address shown on the registration books kept by the bond registrar; provided however, that so long as the bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York (DTC), notice of redemption shall be given in accordance with the terms of the representation letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

(c) If less than all the bonds of a maturity are called for redemption while the bonds are registered in the name of Cede & Co., the city or the bond registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the bonds of a maturity are called for redemption and the bonds are not registered in the name of Cede & Co., the bond registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 Interest on the bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an interest payment date), commencing August 1, 2003. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the municipal securities rulemaking board. The bond registrar designated below shall make all interest payments with respect to the bonds by check or draft mailed to the registered owners of the bonds shown on the bond registration records maintained by the bond registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the interest payment date at such owners' addresses shown on such bond registration records.

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

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

2.05 The city hereby appoints Wells Fargo Bank 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). To provide for the bond registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 02-1205-02. No bond shall be valid or obligatory for any purpose until the bond registrar's authentication certificate on such bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the bond registrar. Authentication certificates on different bonds need not be signed by the same representative. The manual signature of one officer of the city or the executed authentication certificate on each bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the bonds eligible for the services provided by DTC, the city has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the city and DTC (the representation letter).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

(b) All of the bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the bond registrar's receipt of funds from the city on each interest payment date to the account of Cede & Co. on each Interest payment date at the address indicated in or pursuant to the representation letter.

(c) Additional matters with respect to, among other things, notices, consents and approvals by bond holders and payments on the bonds are set forth in the representation letter.

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

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

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

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

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

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

GENERAL OBLIGATION UTILITIES REVENUE BOND, SERIES 2002G

R-____

\$_____

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	December 1, 2002	

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, 2002, 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, 2003. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank 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 \$4,635,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to a resolution adopted on December 5, 2002, by the governing body of the City (the "Resolution"). The Bonds consist of three issues:

- (i) That portion of the Bonds (\$1,385,000) issued for improvements to the municipal water utility are issued pursuant to the authority contained in Minnesota Statutes, Chapter 475, and Section 444.075 and Section 55 of the Home Rule Charter of the

City, and all other laws and charter provisions thereto enabling and pursuant to Ordinance No. 9565 adopted October 28, 2002, for the purpose of providing funds for improvements to such municipal water utility and for payment of part of the interest cost of such bond issue. That portion of the Bonds issued for the municipal water utility are payable from the net revenues to be derived from the operation of the municipal water utility of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the municipal water utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the portion of the Bonds issued for the water utility, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal water utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the portion of the Bonds issued for the water utility.

(ii) That portion of the Bonds (\$1,825,000) issued for improvements to the municipal sewer utility are issued pursuant to the authority contained in Minnesota Statutes, Chapter 475, and Sections 115.46 and 444.075 and Section 55 of the Home Rule Charter of the City, and all other laws and charter provisions thereto enabling and pursuant to Ordinance No. 9566 adopted October 28, 2002, for the purpose of providing funds for improvements to such municipal sewer utility and for payment of part of the interest cost of such bond issue. That portion of the Bonds issued for the municipal sewer utility 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 portion of the Bonds issued for the sewer utility, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the

principal and interest due on the portion of the Bonds issued for the sewer utility.

(iii) That portion of the Bonds (\$1,425,000) issued for improvements to the municipal gas utility are issued pursuant to the authority contained in Minnesota Statutes, Chapter 475 and Section 55 of the Home Rule Charter of the City, and all other laws and charter provisions thereunto enabling, and pursuant to Ordinance No. 9567 adopted on October 28, 2002, for the purpose of providing funds for improvements to the municipal gas utility and for payment of part of the interest cost of said bond issue. That portion of the Bonds issued for improvements to the municipal gas utility are payable primarily from the net revenues to be derived from the operation of the municipal gas 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 gas utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the portion of the Bonds issued for the gas utility, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal gas utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the portion of the Bonds issued for the gas utility.

The Bonds of this series maturing in the years 2004 through 2011 are not subject to redemption before maturity, but those maturing in the year 2012 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2011, and on any date thereafter, in whole or in part, in such order of maturities as selected by the City and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond, a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

IN WITNESS WHEREOF, the City of Duluth, by its city council, has caused this Bond to be executed in its name by the signatures of the mayor and the city clerk.

Attest:

Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

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

Date	Registered Owner	Signature of Bond Registrar
12/___/02	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)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any

bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 3. Revenues, accounts and covenants.

3.01 Water portion of the bonds.

(a) The city council covenants and agrees with the holders of the bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal water utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the water portion of the bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this section.

The city will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal water utility in a separate water utility operating account within the public utility water fund maintained under Section 54 of the City Charter. Except as provided in this section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal water utility, and to maintain such reasonable reserves for such expenses as the director of finance shall determine to be necessary from time to time in accordance with policies established by the city council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all water utility bonds when due.

(b) The city has created a separate construction account within the public utility water fund to which there shall be credited \$1,385,000 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 water utility and costs of the issuance of the water portion of the bonds.

(c) Until the bonds issued hereunder are fully paid or duly called for redemption, or otherwise discharged, the city will also maintain a separate debt service account (the water debt service fund) in the public utility water fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the water portion of the bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the water utility. The treasurer shall credit to the water debt service fund all proceeds of the water portion of the bonds in excess of \$1,385,000, 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 water portion of the

bonds. The treasurer shall transfer from the water utility operating account to the water debt service fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the water portion of the bonds, and a pro rata portion of all charges due to the bond registrar. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the city council.

(d) Surplus utility revenues from time to time received in the water utility operating account, in excess of payments due from and reserves required to be maintained in the water utility operating account and in the water debt service fund, may be used for necessary capital expenditures for the improvement of the municipal water utility, for the prepayment and redemption of bonds constituting a lien on the municipal water utility, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

3.02 Sewer portion of the bonds.

(a) The city council covenants and agrees with the holders of the bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the sewer portion of the bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this section.

The city will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal sewer utility in a separate sewer utility operating account within the public utility sewer fund maintained under Section 54 of the City Charter. Except as provided in this section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal sewer utility, and to maintain such reasonable reserves for such expenses as the director of finance shall determine to be necessary from time to time in accordance with policies established by the city council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all sewer utility bonds when due.

(b) The city has created a separate construction account within the public utility sewer fund to which there shall be credited \$1,825,000 from the proceeds of the bonds, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, together with any additional funds which may be available and are appropriated for improvements to the utility. This account shall be used only to pay expenses duly approved and allowed which, under generally accepted accounting principles, constitute capital expenditures for the completion of improvements to the sewer utility and costs of the issuance of the sewer portion of the bonds.

(c) Until the bonds issued hereunder are fully paid or duly called for redemption, or otherwise discharged, the city will also maintain a separate debt service account (the sewer debt service fund) in the public utility sewer fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the sewer portion of the bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the sewer utility. The treasurer shall credit to the

sewer debt service fund all proceeds of the sewer portion of the bonds in excess of \$1,825,000, less amounts used to pay a part of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56, plus the amount of accrued interest on the sewer portion of the bonds. The treasurer shall transfer from the sewer utility operating account to the sewer debt service fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the sewer portion of the bonds, and a pro rata portion of all charges due to the bond registrar. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the city council.

(d) Surplus utility revenues from time to time received in the sewer utility operating account, in excess of payments due from and reserves required to be maintained in the sewer utility operating account and in the sewer debt service fund, may be used for necessary capital expenditures for the improvement of the municipal sewer utility, for the prepayment and redemption of bonds constituting a lien on the municipal sewer utility, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

3.03 Gas portion of the bonds.

(a) The city council covenants and agrees with the holders of the bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal gas 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 gas portion of the bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this section.

The city will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal gas utility in a separate gas utility operating account within the public utility gas 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 gas 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 gas utility bonds when due.

(b) The city has created a separate construction account within the public utility gas fund to which there shall be credited \$1,425,000 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 gas utility and costs of the issuance of the gas portion of the bonds.

(c) Until the bonds issued hereunder are fully paid or duly called for redemption, or otherwise discharged, the city will also maintain a separate debt service account (the

gas debt service fund) in the public utility gas fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the gas portion of the bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the gas utility. The treasurer shall credit to the gas debt service fund all proceeds of the gas portion of the bonds in excess of \$1,425,000, 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 gas portion of the bonds. The treasurer shall transfer from the gas utility operating account to the gas debt service fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the gas portion of the bonds, and a pro rata portion of all charges due to the bond registrar. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the city council.

(d) Surplus utility revenues from time to time received in the gas utility operating account, in excess of payments due from and reserves required to be maintained in the gas utility operating account and in the gas debt service fund, may be used for necessary capital expenditures for the improvement of the municipal gas utility, for the prepayment and redemption of bonds constituting a lien on the municipal gas utility, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

3.04 If the balances in either the water debt service fund, the sewer debt service fund or the gas 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 funds when the balances therein are sufficient. It is estimated that the net revenues herein pledged and appropriated to said debt service funds will be received at the times and in amounts not less than five percent in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the city's liability on the bonds is not limited to the revenues so pledged, and the city council covenants and agrees that it will levy upon all taxable property within the city, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the bonds, without limitation as to rate or amount.

Section 4. Tax covenants; miscellaneous.

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

4.02 (a) No portion of the proceeds of the bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the bonds or \$100,000. To this effect, any proceeds of the bonds and any sums from time to time

held in the debt service fund (or any other city account which will be used to pay principal and interest to become due on the bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

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

(c) The city hereby covenants not to use the proceeds of the bonds, or to cause or permit them to be used, in such a manner as to cause the bonds to be private activity bonds within the meaning of Sections 103 and 141 through 150 of the code.

4.03 (a) Pursuant to Section 1.148-7(d) of the treasury regulations, relating to exception from rebate, the city hereby covenants that with respect to the gross proceeds of the bonds, the following schedule will be met: (i) at least 15 percent 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 percent of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100 percent of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of five percent of the available proceeds of the bonds, and that 100 percent 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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 02-0789 was unanimously adopted.

Approved December 5, 2002

GARY L. DOTY, Mayor

- - -

BY VICE PRESIDENT HOGG:

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

Section 1. Bond purpose and authorization.

1.01 (a) Under and pursuant to the provisions of Chapter 475 of Minnesota Statutes and other pertinent provisions of said statutes and the home rule charter of the city, the city is authorized to issue its general obligation bonds to finance the cost of local public improvements, and the city council may pledge the full faith and credit and taxing powers of the city for the payment of the principal and interest on such indebtedness.

(b) The city council has, by resolutions adopted on the following dates, ordered the following local public improvements, as more fully described in reports filed with the city clerk by the special assessment board pursuant to and in accordance with Chapter IX of the City Charter (the public improvements); and the council determined to defray the following portions of the cost of the improvements set forth below to be assessed against benefitted property:

Order in Resolution No.	Date Resolution Passed	Assessable Cost	Project Description
01-0014	01/16/01	\$7,500	Drainage ditch and storm sewer in Kingston Alley from 51st-52nd Avenue East
01-0386	05/29/01	27,707	Sidewalks 2001 and Pavement Restore
01-0411	05/29/01	39,630	Street in Harding Avenue from Central Entrance-Palm Street
02-0024	01/14/02	21,150	Permanent alley in 61st Avenue West alley (Bristol & Greene)
02-0025	01/14/02	7,200	Resurface 103rd Avenue West alley (McGonale & 102nd Avenue)
01-0848 (as amended)	12/03/01	90,887	Sanitary sewer and watermain on Rice Lake Road

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Order in Resolution No.	Date Resolution Passed	Assessable Cost	Project Description
01-0645	09/24/01	24,800	Permanent alley in Spear Avenue from Glenwood to Park
02-0164	03/11/02	24,050	Sanitary sewer and watermain along Minnesota Avenue
02-0165	03/11/02	16,800	Sanitary sewer on 11th Street alley across North 14th Avenue East
02-0246	04/22/02	132,000	Sanitary sewer in Decker Road
02-0354	05/28/02	275,200	Maryland Street from Dodge to Victoria Street, water, gas, sanitary sewer
02-0401	06/24/02	40,000	Sidewalks 2002 and pavement restore
02-0124	02/11/02	42,000	Fond du Lac water system
02-0554	08/19/02	418,830	Hartley Estates 3
02-0573	08/26/02	34,975	85th Avenue West extension including C&G St., W&G main
02-0563	08/26/02	12,000	Water main on 96th Avenue West
02-0630	09/23/02	22,000	Sanitary sewer in Swenson Avenue at 92nd Avenue West
02-0706	10/15/02	869,600	Northridge Estates Street, sanitary and storm sewer, water and gas
02-0671	10/15/02	28,000	Permanent alley in 3rd Street alley from 15th-19th Avenue East
02-0672	10/15/02	36,470	Permanent alley in 57th Avenue West alley from Cody to 57th Avenue West

(c) Pursuant to the authority herein recited, the city authorizes and directs the issuance and sale of \$2,220,000 general obligation improvement bonds, Series 2002H, to be dated December 1, 2002, as the date of original issue (the bonds).

(d) Evensen Dodge, Inc., financial consultant to the city, has given notification by mail to at least five firms determined by Evensen Dodge, Inc., to be prospective bidders on the bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the bonds. All actions of the mayor, the clerk and Evensen Dodge, Inc., taken with regard to the sale of the bonds are hereby ratified and approved.

1.02 Pursuant to such solicitation for bids for the sale of the bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Cronin & Co., Inc., of Minneapolis,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Minnesota (the purchaser), to purchase the bonds at a cash price of \$2,195,585.30, plus accrued interest on the total principal amount from December 1, 2002, to the date of delivery of the bonds and upon condition that the bonds mature and bear interest at the times and annual rates set forth in Section 2. The city, after due consideration, finds such offer reasonable and proper and the offer of the purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the city a contract for the sale of the bonds in accordance with the purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of bonds.

2.01 The bonds to be issued hereunder shall be dated December 1, 2002, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The bonds shall mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

Year	Amount	Interest Rate	Year	Amount	Interest Rate
2004	\$100,000	3.50%	2012	\$150,000	4.00%
2005	120,000	3.50	2013	155,000	4.10
2006	120,000	3.50	2014	165,000	4.20
2007	125,000	3.50	2015	170,000	4.25
2008	130,000	3.75	2016	180,000	4.40
2009	135,000	3.75	2017	190,000	4.50
2010	140,000	4.00	2018	195,000	4.55
2011	145,000	4.00			

2.02 (a) The bonds maturing in the years 2004 through 2011 shall not be subject to optional redemption and prepayment before maturity, but those maturing in the year 2012 and in subsequent years shall each be subject to redemption and prepayment at the option of the city on February 1, 2011, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the city and by lot as to the bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date.

(b) In the event any of the bonds are called for redemption, notice thereof identifying the bonds to be redeemed will be given by the bond registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each bond to be redeemed at the address shown on the registration books kept by the bond registrar; provided however, that so long as the bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York (DTC), notice of redemption shall be given in accordance with the terms of the representation letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity

of any proceeding for the redemption of bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

(c) If less than all the bonds of a maturity are called for redemption while the bonds are registered in the name of Cede & Co., the city or the bond registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the bonds of a maturity are called for redemption and the bonds are not registered in the name of Cede & Co., the bond registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 Interest on the bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an interest payment date"), commencing August 1, 2003. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the municipal securities rulemaking board. The bond registrar designated below shall make all interest payments with respect to the bonds by check or draft mailed to the registered owners of the bonds shown on the bond registration records maintained by the bond registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the interest payment date at such owners' addresses shown on such bond registration records.

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

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

2.05 The city hereby appoints Wells Fargo Bank 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). To provide for the bond registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 02-1205-03. 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

2.06 (a) In order to make the bonds eligible for the services provided by DTC, the city has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the city and DTC (the representation letter).

(b) All of the bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the bond registrar's receipt of funds from the city on each interest payment date to the account of Cede & Co. on each interest payment date at the address indicated in or pursuant to the representation letter.

(c) Additional matters with respect to, among other things, notices, consents and approvals by bond holders and payments on the bonds are set forth in the representation letter.

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

2.08 Each bond delivered upon transfer of or in exchange for or in lieu of any other bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other bond. Each bond shall be dated by the bond registrar as of the date of its authentication. The city and the bond registrar shall not be required to make any transfer or exchange of any bonds called for redemption or to make any such exchange or transfer of the bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the bonds.

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

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

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

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

GENERAL OBLIGATION IMPROVEMENT BOND
SERIES 2002H

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

R-____ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	December 1, 2002	

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, 2002, 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, 2003. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank 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 \$2,220,000, 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 December 5, 2002 (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 2004 through 2011 are not subject to redemption before maturity, but those maturing in the year 2012 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2011, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond, a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

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

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

IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this Bond to be executed in its name by the signatures of the mayor and the city clerk.

Attest:

Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

WELLS FARGO 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 Wells Fargo 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	Registered Owner	Signature of Bond Registrar
12/__/02	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 _____

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

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

Signature Guaranteed:

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

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

Section 3. 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 percent 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 2002 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 2002 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 2002 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 2002 Improvement bond account will be received at the times and in amounts not less than five percent in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the city's liability on the bonds is not limited to the revenues 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 2002 projects account and the 2002 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 percent 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 percent of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100 percent of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of five percent of the available proceeds of the bonds, and that 100 percent 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

and accurate representation of the facts and representations made therein as of the date of the official statement.

Resolution 02-0790 was unanimously adopted.

Approved December 5, 2002

GARY L. DOTY, Mayor

- - -

BY VICE PRESIDENT HOGG:

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

Section 1. Certificate purpose and authorization.

1.01 Under and pursuant to the provisions of Minnesota Statutes, Sections 410.32 and 412.301 and Minnesota Statutes, Chapter 475 (collectively, the act), and the City Charter, the city is authorized to issue its general obligation capital equipment certificates of indebtedness to provide funds to purchase capital equipment having an expected useful life at least as long as the term of the certificates of indebtedness.

1.02 The city council adopted Resolution No. 02-0757 declaring the intention of the city to issue such certificates of indebtedness in the amount of approximately \$1,780,000 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 \$1,780,000 general obligation equipment certificates of indebtedness, Series 2002I, of the city (the certificates) to provide funds to purchase capital equipment authorized by the act, to pay certain expenses incurred in the issuance of the certificates and to pay a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56. The capital equipment to be purchased with the proceeds of the certificates will have a useful life of more than five years.

1.04 Evensen Dodge, Inc., financial consultant to the city, has given notification by mail to at least five firms determined by Evensen Dodge, Inc., to be prospective bidders on the certificates at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the certificates. All actions of the mayor, the clerk and Evensen Dodge, Inc., taken with regard to the sale of the certificates are hereby ratified and approved.

1.05 Pursuant to such solicitation for bids for the sale of the certificates, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Cronin & Co., Inc., of Minneapolis, Minnesota (the purchaser), to purchase the certificates at a cash price of \$1,796,551.85, plus accrued interest on the total principal amount from December 19, 2002, 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 bid reasonable and proper and the bid of the purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the city a contract for the sale of the certificates in accordance with the purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms, execution and delivery of the certificates.

2.01 The certificates to be issued hereunder shall be dated December 19, 2002, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

certificates shall mature on December 19 in the respective years and amounts stated and shall bear interest as follows:

Year	Amount	Interest Rate
2003	\$335,000	2.50
2004	345,000	2.50
2005	355,000	2.50
2006	365,000	3.00
2007	380,000	3.00

2.02 The certificates are not subject to redemption and prepayment before maturity.

2.03 The interest shall be payable semiannually on June 19 and December 19 in each year (each referred to herein as an interest payment date), commencing June 19, 2003. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the municipal securities rulemaking board. The bond registrar designated below shall make all interest payments with respect to the certificates by check or draft mailed to the registered owners of the certificates shown on the bond registration records maintained by the bond registrar at the close of business 15 days next preceding the interest payment date (whether or not a business day) at such owners' addresses shown on such bond registration records.

2.04 The certificates shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the city clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the certificates shall cease to be an officer before delivery of the certificates, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery. The city clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each certificate, together with a certificate to be signed by the manual or facsimile signature of the city clerk in substantially the form set forth in the form of the certificate. The city clerk is authorized and directed to execute the certificate in the name of the city upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the city offices.

2.05 The city council hereby appoints Wells Fargo Bank 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). To provide for the bond registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 02-1205-04. No certificate shall be valid or obligatory for any purpose until the bond registrar's authentication certificate on such certificate, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the bond registrar. Authentication certificates on different certificates need not be signed by the same representative. The manual signature of one officer of the city or the executed authentication

certificate on each certificate shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the certificates eligible for the services provided by The Depository Trust Company, New York, New York (DTC), the city has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the city and DTC (the representation letter).

(b) All of the certificates shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any certificate registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the bond registrar's receipt of funds from the city of each Interest payment date to the account of Cede & Co. on each interest payment date at the address indicated in or pursuant to the representation letter.

(c) Additional matters with respect to, among other things, notices, consents and approvals by certificate holders and payments on the certificates are set forth in the representation letter.

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

2.08 Each certificate delivered upon transfer of or in exchange for or in lieu of any other certificate shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other certificate. Each certificate shall be dated by the bond registrar as of the date of its authentication. The city and the bond registrar shall not be required to make any transfer or exchange of any certificates called for redemption or to make any such exchange or transfer of the certificates during the 15 days next preceding the date of the first publication of the notice of redemption in the case of a proposed redemption of the certificates.

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

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

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

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

GENERAL OBLIGATION EQUIPMENT CERTIFICATE
OF INDEBTEDNESS, SERIES 2002I

R-____ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
%	December 19, ____	December 19, 2002	

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 19, 2002, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on June 19 and December 19 of each year (each referred to herein as an "Interest Payment Date") commencing on June 19, 2003. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank 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 \$1,780,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Sections 410.32 and 412.301 and Chapter 475, the City Charter and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on December 5, 2002 (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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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:

Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

WELLS FARGO BANK 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.

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 Wells Fargo 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Date	Registered Owner	Signature of Bond Registrar
12/19/02	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

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

(Name and Address of Assignee)

Social Security or Other
Identifying Number of Assignee

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

Dated: _____

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

Signature Guaranteed:

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

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the

City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 3. Covenants, accounts and representations.

3.01 The city has created a separate acquisition account within the capital equipment fund to which there shall be credited \$1,780,000, 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, together with premium, 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 become due as follows:

Levy Year	Collection Year	Tax Levy
2002	2003	\$400,000
2003	2004	404,093
2004	2005	405,537
2005	2006	406,718
2006	2007	410,970

(b) A separate debt service account is hereby created and designated as the 2002 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 \$1,780,000, 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 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the certificates when due.

Section 4. Tax covenants.

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

4.02 (a) No portion of the proceeds of the certificates shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the certificates were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the certificates or \$100,000. To this effect, any proceeds of the certificates and any sums from time to time held in the debt service fund (or any other city account which will be used to pay principal and interest to become due on the certificates) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

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

(c) The city hereby covenants not to use the proceeds of the certificates, or to cause or permit them to be used, in such a manner as to cause the certificates to be private activity bonds within the meaning of Sections 103 and 141 through 150 of the code.

4.03 (a) Pursuant to Section 1.148-7(d) of the treasury regulations, relating to exception from rebate, the city hereby covenants that with respect to the gross proceeds of the certificates, the following schedule will be met: (i) at least 15 percent 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 percent of such proceeds will be allocated for such purposes within the one year period of such date; and (iii) 100 percent of such proceeds will be allocated for such purposes within the 18 month period beginning on such date; subject to an exception for reasonable retainage of 5 percent of the available proceeds of the certificates, and that 100 percent of the available proceeds of the certificates will be allocated within 30 months from the date of issue of the certificates.

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

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

Section 6. Certificates of proceedings.

6.01 The city clerk is directed to file in the office of the county auditor of St. Louis County a certified copy of this resolution, and such other information as the county auditor may require, and to obtain from the county auditor and provide to bond counsel a certificate stating that the certificates herein authorized have been duly entered on the county auditor's register.

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

6.03 The mayor and the city clerk are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the issuance and sale of the certificates and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as for the date of the official statement.

6.04 In the event of the absence or disability of the mayor or the city clerk, such officers as in the opinion of the city attorney, may act in their behalf, shall without further act or

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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 02-0791 was unanimously adopted.

Approved December 5, 2002

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 6:35 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 16, 2002, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

The minutes of the council meetings held on August 8, 12, 19, 22, 26, September 9 and 23, 2002, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

02-1216-26 Renee Meyers, et al. (five signatures) submitting petition to vacate Centre Avenue between Cleveland and Buffalo streets adjacent to Blocks 14, 15, 20 and 21, in the plat of Myers and Whipples Addition. -- Assessor

02-1216-01 Elizabeth and Henry Moeller submitting petition to construct 210 lineal feet of sanitary sewer within Falcon Street beginning at the intersection of 90th Avenue West and extending easterly. -- Assessor

02-1216-27 Ridgeview Country Club submitting application to remove the special use permit restrictions of Ordinance No. 8951 as it pertains to property described as part of SE1/4 of NW1/4, Section 3, Township 50 North, Range 14 West, Fourth Principal Meridian, city of Duluth, St. Louis County, Minnesota, for the purpose of making it available for residential development. -- Assessor

02-1216-02 Judie and Derek Streu submitting petition to construct approximately 200 lineal feet of sanitary sewer within Earl Street Alley beginning 120 feet east of 71st Avenue West and extending westerly. -- Assessor

02-1216-03 Minnesota state auditor submitting Spirit Mountain recreation area authority audit report for the years ended April 30, 2002 and 2001. -- Received

02-1216-28 Harold P. Otter submitting communication regarding the proposed moratorium on the payment of city funds to the Great Lakes Aquarium (02-0824R). -- Received

02-1216-29 Deede Westermann submitting communication regarding the proposed vacation of a portion of 64th Avenue West from Redruth Street to the southerly boundary of the abandoned Burlington Northern Railroad right-of-way (Habitat for Humanity) (02-0769R). -- Received

02-1216-30 The following submitting communications regarding the proposed disposition option for the old Armory building (02-0878R): (a) Armory Arts and Music Center; (b) Chris Godsey; (c) Henry Moore. -- Received

02-1216-31 Kent Worley submitting communication regarding the proposal of referring the Bayfront master plan back to the administration for further study (02-0875R). -- Received

02-1216-32 The following submitting communications regarding the proposed instant runoff voting system for use in the 2003 mayor's primary election (02-0879R): (a) Tom Albright; (b) Alice Guckin; (c) Warren M. Howe; (d) Susan Ludwig; (e) Devin McKinnon; (f) Henry Moore; (g) Kriss Osbakken; (h) Ethan Perry; (i) Will Rhodes (3); (j) Greg Rupert; (k) Jamison Lea Tessner. -- Received

- - -

REPORTS OF OFFICERS

02-1216-04 Assessor submitting letters of sufficiency to:

- (a) Construct approximately 200 lineal feet of sanitary sewer within Earl Street Alley beginning 120 feet east of 71st Avenue West and extending westerly;
- (b) Construct 210 lineal feet of sanitary sewer within Falcon Street beginning at the intersection of 90th Avenue West and extending easterly;
- (c) Vacate the various easements located in Oneota Industrial Park First Addition, all of Block 3. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

02-1216-33 Alcohol, gambling and tobacco commission minutes of: (a) September 10; (b) October 8; (c) November 12, 2002, meetings. -- Received

02-1216-05 Duluth airport authority: (a) Minutes of November 19; (b) Unaudited balance sheets of: (1) September 30; (2) October 31, 2002. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Mark Gunderson suggested that the bus shelters be modified to give better protection from the weather.

- - -

Kay L. Lewis felt that it would be worth it to have information, by major tourist event, of the amount of cash inflow that comes into the city.

- - -

RESOLUTIONS TABLED

Councilor Hogg moved to remove Resolution 02-0800, approving the fiscal year January 1, 2003, to December 31, 2003, operation budget of the Duluth transit authority, from the table, which motion was seconded and unanimously carried.

Resolution 02-0800 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the operation budget for the fiscal year January 1, 2003, to December 31, 2003, in the amount of \$9,805,221 for the Duluth transit authority is hereby approved.

BE IT FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 15 of each year.

Resolution 02-0800 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

Councilor Hogg moved to remove Resolution 02-0803, distributing the 2003 tourism taxes of hotel-motel and food and beverage, from the table, which motion was seconded and unanimously carried.

Councilors Gilbert, Stover and President Ness expressed the concerns that: the state of Minnesota budget has severe shortfalls that will adversely affect the local government aid (LGA) that the city receives; in order to balance the budget with lower LGA, the city might have to layoff 55 to 60 employees and reduce city services; this resolution has some nonrestricted discretionary funds incorporated into it that the city could use for general fund services; and the Depot, which is a tourist attraction the city supports, is in financial difficulties.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Councilor Gilbert moved to return the resolution to the administration, which motion was seconded and failed upon the following vote:

Yeas: Councilors Gilbert, Stewart, Stover and President Ness -- 4

Nays: Councilors Atkins, Bergson, Hogg, Stauber and Stenberg -- 5

Resolution 02-0803 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the 2003 tourism taxes of hotel-motel and food and beverage, as estimated, be distributed in the following manner:

	3% hotel- motel	1% hotel- motel	1.5% food & beverage	Additional 2.5% hotel- motel	TOTAL
Duluth public arts commission			\$ 20,000	\$ 10,000	\$ 30,000
Sister cities			\$ 22,000	\$ 13,600	\$ 35,600
DECC	\$ 784,200				\$ 784,200
Great Lakes aquarium			\$ 225,000		\$ 225,000
Convention and visitors bureau	\$ 422,300	\$139,600	\$ 450,000	\$166,500	\$1,178,400
Heritage and arts		\$ 89,900	\$ 49,600	\$ 8,000	\$ 147,500
Donations			\$ 30,000	\$ 20,000	\$ 50,000
To general fund	\$ 63,500	\$190,500	\$ 332,000	\$178,700	\$ 764,700
To debt service			\$ 328,800	\$396,800	\$ 725,600
DECC debt service			\$ 728,700	\$198,400	\$ 927,100
TOTALS	\$1,270,000	\$420,000	\$2,186,100	\$992,000	\$4,868,100

Resolution 02-0803 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Hogg, Stauber, Stenberg and Stewart -- 6

Nays: Councilors Gilbert, Stover and President Ness -- 3

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

Councilor Stenberg moved to remove Resolution 02-0768, vacating a portion of 64th Avenue West from Redruth Street to the southerly boundary of the abandoned Burlington Northern Railroad right-of-way (Habitat for Humanity), from the table, which motion was seconded and unanimously carried.

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

John Hawley and Stan Kaitfers spoke in support of the resolution, citing the need for this facility to assist in creating affordable housing.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Councilor Stover expressed concern that there is no plan, or property acquired for a new truck route.

Resolution 02-0768 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of 64th Avenue West, extending north from Redruth Street to the southerly boundary of the abandoned Burlington Northern railroad right-of-way legally described as: 64th Avenue West adjoining Block 5, Grotheim and Jorstads Subdivision of Block 5, Hunters Grassy Point Addition to Duluth, and Block 6, Hunters Grassy Point 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 street vacation petition at its November 12, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the street easement described above and as more particularly described on Public Document No. 02-1216-34.

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

Resolution 02-0768 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart and President Ness -- 8

Nays: Councilor Stover -- 1

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

At this time, 7:45 p.m., President Ness recessed the regular order of business and stated that the public hearing regarding the reuse of the Duluth Armory would begin.

Michael Solon, Karen Johnson, Tom Hollenhorst, Bethany VanOvermeiren, Carolyn Sundquist, representing National Trust for Historic Preservation, Nathan DeMars, Kay L. Lewis, Alan Sparhawk, Lynn Olson, Vicki Sanville, Peggy Marrin, Ben Forneer and Rachel Shulstad stated support for the Armory Arts & Music Center proposal. Reasons given in support of the proposal were as follows: the committee has the drive and determination to go through with this project; the current plan now has a housing component; the proposal provides for continuing public access; the pride and character of the "public use" for this building will be showcased; events for young and old will be held here; the needs of the many should be achieved; it anchors the eastern end of the Lakewalk; since its beginning, it was an arts and music center; this proposal can qualify for \$4.5 million of historic and new market tax credits; it will cost from \$800,000 to \$1 million to tear it down; the head of the American National Ballet Company is interested in space in this building; this center could become an arts and music center destination; the city needs to go the extra effort to accomplish this; the National Trust for Historic Preservation is interested in preserving this building, and has access to financial sources; this building is needed to preserve community character; this building when built, was considered one of the finest and served as the city's community center until the DECC opened; the building is eligible for listing in the National Register of Historic Places;

it takes time to put together creative reuses; an arts and music center could assist to keep college graduates here; the building's connection to Bob Dylan will attract visitors from around the world; if this project fails, the city could then proceed with a private development; there could be a sizeable cash flow to the community from the various operations that could exist in the building; the project will be a national model for sustainable development and action because of environment, economy and community; the city has let the building deteriorate to the state it is in today; adaptive reuse can create new memories for future generations and the housing aspect of the project is highly needed, and when condominiums are not affordable housing.

At this time, 8:40 p.m., President Ness closed the public hearing and the regular order of business was resumed.

- - -

Councilor Stewart moved to suspend the rules to consider Resolution 02-0878, recommending the disposition option for the old Armory building, at this time, which motion was seconded and unanimously carried.

Councilor Hogg moved to amend the resolution by adding the following language at the end of Option No. 1:

"subject to their acquisition of necessary financing for their proposal within two years of the time they take control of the building and the site, and subject to necessary mothballing work on the building being accomplished without out-of-pocket cost to the city," which motion was seconded and unanimously carried.

Councilors Stauber and Stenberg supported the Grandview Condominiums for the reasons of: the esthetics of a smaller footprint and parking underground is preferred; very little public financing is involved; high end housing is also needed in the city; the arts and music center group should work with the operations at the St. Louis County Depot; renovations to the armory will be very expensive; there is a responsibility to the citizens to minimize financial risk, in that now there is a developer, using almost all private funding, and in two and a half years, if the arts and music center is not successful, the developer may no longer be interested and if the arts/music center mothballing option is chosen, there is no guarantee that the city will not have out-of-pocket expenses.

Councilor Hogg moved to amend the resolution by removing Option Nos. 2, 3 and 4, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stewart, Stover and President Ness -- 7

Nays: Councilors Stauber and Stenberg -- 2

Resolution 02-0878, as amended, was adopted as follows:

BY COUNCILOR HOGG:

WHEREAS, the city of Duluth wishes to make a disposition of the Old Armory building at 1301 London Road in the manner which will best benefit the community; and

WHEREAS, the city of Duluth conducted an open process through which proposals for the disposition of the Armory were sought; and

WHEREAS, a task force appointed by the mayor was selected and empowered to evaluate the proposals and to make recommendations regarding disposition options to the city council; and

WHEREAS, the report of the task force has been received and given consideration by the city council;

NOW, THEREFORE, BE IT RESOLVED, that the city council recommends the following option be selected for disposition of the Old Armory building:

The Armory Arts & Music Center proposal, subject to their acquisition of necessary financing for their proposal within two years of the time they take control of the building and the site, and subject to necessary mothballing work on the building being accomplished without out-of-pocket cost to the city.

BE IT FURTHER RESOLVED, that the city administration is requested to implement the recommended option as soon as possible.

Resolution 02-0878, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stewart, Stover and President Ness -- 7

Nays: Councilors Stauber and Stenberg -- 2

Approved December 16, 2002, pursuant to Section 12 of the Duluth City Charter.

[Editor's Note: Resolution 02-0878 was reconsidered at the January 13, 2003, meeting.]

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

RESOLVED, that in accordance with Minnesota Statutes, Section 469.033, subdivision 6, as amended, and in compliance with a request duly made by the housing and redevelopment authority of Duluth, Minnesota, the city council hereby consents to the levy in the amount of .0144 percent of the taxable property, both real and personal, located in the city of Duluth and shall be used for the support and maintenance of the housing and redevelopment project fund for the fiscal year beginning January 1 and ending December 31, 2003.

BE IT FURTHER RESOLVED, that the council requires annual city review and consent to tax levies as authorized by MSA 469.033, and to the extent former Resolutions 94-0740 and 94-0741 could be construed to waive the requirement of annual consent, they are nullified.

Resolution 02-0806 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

WHEREAS, the city and Arrowhead Youth Soccer Association (AYSA) have previously recognized that youth soccer in Duluth has experienced explosive growth in recent years and both parties have worked together to address the city's lack of regulation soccer fields; and

WHEREAS, the city and AYSA have previously entered into an agreement in which the city and AYSA agreed to work toward the development of land and eventual completion of a soccer field at the base of Spirit Mountain; and

WHEREAS, in 2001 the city completed the construction of the Spirit Mountain soccer field; and

WHEREAS, the city was able to secure additional grant funds for the fencing at the Spirit Mountain soccer field from the state of Minnesota; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

WHEREAS, on January 28, 2002, by Resolution 02-0074, the city council authorized a grant agreement with the Minnesota amateur sports commission in the amount of \$7,000; and WHEREAS, to make the soccer field safe for use for the 2002 soccer season, AYSA agreed to install the fencing in anticipation of receiving the grant from the state.

RESOLVED, that the Duluth City Council hereby authorizes the reimbursement of \$7,000, state government funds, to Arrowhead Youth Soccer Association, from the 2001 capital improvement plan, to be paid from Budget 0450-015-2002-C220.

Resolution 02-0823 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the assessment rolls levied to defray the assessable portions of the construction of:

(a) Permanent design alley for Spear Avenue (an alley easement) between Glenwood and Park streets (Contract No. 5342, assessable amount - \$24,805.93);

(b) Sanitary sewer and water and gas mains for Boulevard Terrace (Contract Nos. 5322, 1198011, 1198012, assessable amount - \$130,541.85);
are hereby confirmed.

Resolution 02-0847 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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 2003 for an administrative fee of \$31.87 per single employee or per family per month and a fee for stop loss coverage of \$19.16 per single employee per month and \$51.19 per family per month, for a total estimated cost of \$1,439,700, which shall be paid from the group health fund.

Resolution 02-0868 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are authorized and directed to execute that certain agreement filed as Public Document No. 02-1216-06, 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 \$178,000 to be paid from General Fund 0100-700-1409-5441.

Resolution 02-0874 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Duluth Lawn and Sport, Inc., be and hereby is awarded a contract for furnishing and delivering John Deere repair parts and supplies as needed for year 2003 for the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

fleet services division in accordance with specifications at an estimated amount of \$10,000, terms net 30, FOB destination, payable out of Fleet Services Fund 0660, Dept./Agency 015, Organization 1560, Object 5221; to be encumbered out of year 2003 budget.

Resolution 02-0810 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to enter into a professional services agreement with Enventis Telecom, Inc., for the sum of \$30,000 from General Fund 0100-015-2500-5319 for completion of Phase I of the city's telecommunications upgrade project, specifically the discovery and design phase; said agreement on file in the office of the city clerk as Public Document No. 02-1216-07.

Resolution 02-0833 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Leef Services be and hereby is awarded a contract for furnishing laundry/rental service as needed during the year 2003 for the various city departments/divisions in accordance with specifications at an estimated amount of \$66,100, terms net 30, FOB destination, payable out of various funds, depts./agencies, organizations, objects.

Resolution 02-0836 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Maney International of Duluth, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Caterpillar diesel engines as needed during year 2003 for the fleet services division in accordance with specifications at an estimated amount of \$30,000, terms net 30, FOB destination, \$27,000 payable out of Fleet Services Fund 0660, Dept./Agency 015, Organization 1560, Object 5221 and \$3,000 payable out of Fleet Services Fund 0660, Dept./Agency 015, Organization 1560, Object 5404; to be encumbered out of year 2003 budget.

Resolution 02-0837 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Arrowhead Equipment Company be and hereby is awarded a contract for furnishing and delivering tires and tubes as needed for a 12 month period during year 2003 for the fleet services division in accordance with specifications at an estimated amount of \$40,000, terms net 30, FOB destination, \$34,000 payable out of Fleet Fund 0660, Dept./Agency 015, Organization 1560, Object 5221 and \$6,000 payable out of Fleet Fund

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

0660, Dept./Agency 015, Organization 1560, Object 5404; to be encumbered out of year 2003 budget.

Resolution 02-0838 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with International Business Machines Corporation covering computer hardware maintenance as needed during year 2003 for the M.I.S. division in accordance with specifications at an estimated amount of \$27,800, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 015, Organization 1513, Object 5404; to be encumbered out of year 2003 budget.

Resolution 02-0841 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with International Business Machines Corporation covering the existing software license rental as needed during year 2003 for the M.I.S. division in accordance with specifications at an estimated amount of \$57,900, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 015, Organization 1513, Object 5319; to be encumbered out of year 2003 budget.

Resolution 02-0842 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Inter-City Oil Company, Inc., be and hereby is awarded a contract for furnishing and delivering fuel as needed during the year 2003 for the various departments/divisions, in accordance with specifications at an estimated amount of \$491,350, terms net 30, FOB destination, payable out of various funds, dept/agencies, organizations, objects; to be encumbered out of year 2003 budget.

Resolution 02-0843 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Premier Lawn Service/Painting be and hereby is awarded a contract for snow plowing of municipal parking lots and ramps as needed during the winter season year 2002/2003 for the facilities management division in accordance with specifications on its low specification bid at an estimated amount of \$25,000, terms net 30, FOB job sites, payable out of General Fund 0100, Dept./Agency 015, Organization 2500, Object 5402.

Resolution 02-0849 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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, 2003, subject to departmental approvals and the payment of sales and property taxes:

WKK Mgt Company (Ground Round Restaurant), 2102 Maple Grove Road, with William J. Klinefelter, president, and Kathleen Klinefelter, secretary, and Craig Klinefelter, vice president, transferred from The Ground Round, Inc. (Ground Round), same address.

Resolution 02-0854 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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), 4015 Airpark Boulevard, for February 15, 2003, with David Kolquist, manager.

Resolution 02-0855 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the ALS Association, Minnesota 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 02-0857 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointments of James Anderson (basic group) and John Hall (supervisory group) to the deferred compensation plan commission by Mayor Doty for a term

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

expiring December 31, 2006, are confirmed.

Resolution 02-0796 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointment of Carol Thomson to the planning commission by Mayor Doty for a term expiring December 31, 2006, is confirmed.

Resolution 02-0797 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointments to the planning commission by Mayor Doty of Robert Heimbach and Virgil L. Swing, replacing Michael Lang and Donn Larson, for terms expiring December 31, 2006, are confirmed.

Resolution 02-0807 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed specifications for the new civil service classification of utility operations leadworker, which were approved by the civil service board on November 5, 2002, and which are filed with the city clerk as Public Document No. 02-1216-08, are approved; that said classification shall be subject to the city's collective bargaining unit with its basic unit employees; and that pay range for said classification shall be Range 32, \$3,303 to \$3,927 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 02-0828 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

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

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into the Minnesota city participation program application-commitment agreement with the Minnesota housing finance agency related to the allocation and sale of qualified mortgage bonds for the benefit of low- and moderate-income home buyers in the city, which agreement is substantially in the form of that on file in the office of the city clerk as Public Document No. 02-1216-09.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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 02-0832 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, Regulation 24 CFR Part 91 issued by the U.S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD-approved five-year consolidated plan for the city of Duluth; and

WHEREAS, Title 1 of the Housing and Community Development Act of 1974, as amended, establishes a community development block grant (CDBG) program for the purpose of developing viable urban communities by providing decent housing and suitable living environment and expanding economic opportunities and preventing and/or eliminating conditions of slum and blight, principally for persons of low and moderate income; and

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs;

NOW, THEREFORE, BE IT RESOLVED, that the FY 2003 action plan portion of the city of Duluth consolidated plan for housing and community development required by HUD federal legislation is hereby adopted and approved.

BE IT FURTHER RESOLVED, that the city of Duluth hereby makes a finding that expenditures as set forth in Resolution 02-0865 are necessary and appropriate and, further, that said expenditures for the CDBG program will serve to assist low- and moderate-income individuals/families (no less than 70 percent as described in federal regulations) and/or serve to prevent or eliminate conditions of slum or blight in the community.

BE IT FURTHER RESOLVED, that the city of Duluth hereby makes a finding that expenditures as set forth in Resolutions 02-0866 and 02-0867 are necessary and appropriate and, further, that said expenditures for the HOME and ESG programs will serve to assist low- and moderate-income people.

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto and authorizing appropriate city officials to execute any documents with HUD to implement the program. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and emergency shelter grant programs.

Resolution 02-0864 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, Regulation 24 CFR Part 91 issued by the U.S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD-approved five-year consolidated plan for the city of Duluth; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

WHEREAS, city council Resolution No. 02-0864, adopted December 16, 2002, approved the FY 2003 action plan portion of the Duluth consolidated plan for housing and community development FY 2001-2005; 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

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:

2003 HOME PROGRAM - FUND 260

NUMBER	PROJECTS	AMOUNT
H002	Substantial rehabilitation - Phoenix House - Life House	\$ 9,500
H001	New construction - NCLT City Homes Phase II	\$236,100
H003	Other rehabilitation - homeowner property rehab	\$287,900
H001	New construction - Habitat for Humanity	\$ 63,000
H008	Program administration	\$ 79,000
H009	CHDO operating - NCLT	\$ 19,100
H012	Homeownership initiative	\$ 95,400
Total		\$790,000

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized to execute the appropriate agreements with these agencies upon receipt of approval of HUD funds.

Resolution 02-0866 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, Regulation 24 CFR Part 91 issued by the U.S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD-approved five-year consolidated plan for the city of Duluth; and

WHEREAS, city council Resolution No. 02-0864, adopted December 16, 2002, approved the FY 2003 action plan portion of the Duluth consolidated plan for housing and community development FY 2001-2005; 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

provisions of Title I of said act, as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended, (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended (the emergency shelter grant - ESG - program); and

WHEREAS, the City of Duluth desires to continue to carry out HUD-funded programs.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below:

2003 ESG PROGRAM - FUND 260

<u>NUMBER</u>	<u>PROJECTS</u>	<u>AMOUNT</u>
5434	CHUM Shelter	\$ 19,710
	CHUM Drop-In Center	\$ 9,660
	WTHC	\$ 16,300
	Safe Haven Shelter	\$ 19,230
	AICHO - Oshki	\$ 4,930
	AICHO - Dabin	\$ 6,150
	Life House	\$ 13,570
	Veterans Outreach North	\$ 4,980
	Salvation Army	\$ 21,370
5495	Administration	\$ 6,100
	Total	\$122,000

BE IT FURTHER RESOLVED, that the following is hereby designated as the financial resource for the above program:

Source of Funding

2003	ESGP Grant	\$122,000
------	------------	-----------

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized to execute the appropriate agreements with these agencies upon receipt of approval of HUD funds.

Resolution 02-0867 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into a lease agreement, a copy of which is on file in the office of the city clerk as Public Document No. 02-1216-10, with the Northeastern Minnesota office of job training for the subleasing of space in their Harbor View employment center at 3 East 12th Street for operations of its

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

workforce development division for a current rental of \$50 per month; said sums to be payable from Fund 0268, Org. 6278.

Resolution 02-0871 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

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. 02-1216-11 with St. Louis County to provide services under food stamp employment and training (FSET) services at costs not to exceed \$400 per participant, and food stamp and employment training (FSET) start work services for costs not to exceed \$500 per participant. Contract dates shall run from July 1, 2002, through June 30, 2003.

FURTHER RESOLVED, that monies received under this agreement shall be deposited in Fund 0268, Budget Items 6261.

Resolution 02-0826 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that the proper city officers are hereby authorized and directed to enter into a joint power agreement with St. Louis County, Lake County, Cook County, 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 2003; said agreement to be in the form of Public Document No. 02-1216-12 on file in the office of the city clerk.

Resolution 02-0829 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

WHEREAS, the St. Louis County social services department hereby is awarded a contract for furnishing approximately 33,266 hot meals for eligible senior citizens and guests at two St. Louis County facilities located in Duluth for a 12 month period for the senior dining division in accordance with specifications of its proposal of \$4.32 per meal for eligible senior citizens, \$4.70 per meal for guests, and an additional \$0.28 per meal for dining room management provided at Lincoln Park, or approximately \$147,762, payable out of Federal Program Fund 0272, Dept./Agency 031, Organization 6303, Activity SD04, Object 0071.

Resolution 02-0846 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the state of Minnesota which authorizes the utilization of various nonconstruc-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

tion state services by the city on a request basis; said agreement filed as Public Document No. 02-1216-13.
Resolution 02-0848 was unanimously adopted.
Approved December 16, 2002
GARY L. DOTY, Mayor

- - -

BY PRESIDENT NESS:

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

WHEREAS, the city of Duluth desires financial assistance from the coastal management assistance program for the purpose of developing a regional educational outreach program in conjunction with the cities of Hermantown, Proctor and Cloquet, Minnesota; and Superior, Wisconsin; Rice Lake township; University of Minnesota sea grant, University of Minnesota-Duluth; and the Minnesota department of transportation.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to prepare and submit a grant application to the Minnesota department of natural resources in an amount of \$27,650 for said regional educational outreach program.

BE IT FURTHER RESOLVED, that the proper city officers are authorized to act as legal sponsor of said grant and to obligate the funds required to complete the proposed educational outreach project of said grant is tendered by the Minnesota department of natural resources and accepted by the city of Duluth.

Resolution 02-0869 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct 200 feet of sanitary sewer within Earl Street Alley beginning 120 feet east of 71st Avenue West and extending westerly.

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

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

Resolution 02-0830 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct 210 feet of sanitary sewer in Falcon Street beginning at the intersection of 90th Avenue West and extending easterly.

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

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

said project and will further direct procedures prescribed by Section 62 of the Charter.

Resolution 02-0831 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0555 to Levine and Son, Inc., for the construction of Marshall Street between Maxwell Avenue and 1,200 feet west of Maxwell Avenue in the Hartley Estates, Third Addition, be amended to increase the amount by \$100,000 for a new total of \$498,436.33, payable out of Special Assessment Fund 0410, Dept./Agency 038, Organization 5356, Object 5530.

Resolution 02-0834 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0386 to Northland Materials, LLC, dba Northland Bituminous, for the mill and bituminous overlay on 60th Avenue East between London Road and Superior Street, be amended to increase the amount by \$13,731.90 for a new total of \$55,716.70, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2183, Object 5530; to be reimbursed through municipal state aid turnback funds.

Resolution 02-0835 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Ulland Brothers, Inc., be and hereby is awarded a contract for the construction of Northridge Estates for the engineering division in accordance with specifications on its low specification bid of \$972,291.61, terms net 30, FOB job site, payable out of Special Assessment Fund 0410, Dept./Agency 038, Organization 5362, Object 5530.

Resolution 02-0852 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Hydro Supply Company, Inc., be and hereby is awarded a contract for furnishing and delivering water meter repair parts as needed during year 2003 for the utility operations division in accordance with specifications on its low specification bid at an estimated amount of \$35,000, terms net 30, FOB destination, payable out of Water Fund 0510, Dept./Agency 500, Organization 2410, Object 5227; to be encumbered out of year 2003 budget.

Resolution 02-0853 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Infratech, Inc., be and hereby is awarded a contract for furnishing and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

delivering a sewer TV inspection system for the utility operations division in accordance with specifications on its low specification bid of \$115,224.48, terms net 30, FOB destination, payable out of Sewer Fund 0530, Dept./Agency 500, Organization 1905, Object 5580.

Resolution 02-0860 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to enter into a purchase agreement, a copy of which is on file in the office of the city clerk as Public Document No. 02-1216-14 , with Garfield Properties, a Minnesota general partnership, for the purchase of the below-described property in St. Louis county, Minnesota for the amount of \$31,687.50, payable from Fund 0552, Agency 500, Object 5310, and to execute all documents necessary to said transaction:

The westerly fifty (W'ly 50') feet of Lots 81, 83, 85, 87, 89, 91, 93, 95, 97, 99 101, 103, and 105, Block 44, RICE'S POINT except minerals and mineral rights.

Resolution 02-0870 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that Sivertson Fisheries, Inc., be and hereby is awarded a contract for furnishing cold storage rental and fish purchases as needed for year 2003 for the Lake Superior zoo in accordance with specifications at an estimated amount of \$10,000, terms net 30, FOB destination, \$5,000 payable out of General Fund 0100, Dept./Agency 400, Organization 1814, Object 5419 and \$5,000 payable out of General Fund 0100, Dept./Agency 400, Organization 1814, Object 5245; to be encumbered out of year 2003 budget.

Resolution 02-0811 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that E-Z-GO Textron Company be and hereby is awarded a contract for leasing approximately 90 golf carts and ten utility carts for the Enger park and Lester park golf courses in accordance with specifications on its low specification bid of \$75,082.50, terms net 30, FOB destination, payable out of Golf Fund 0503, Dept./Agency 400, Organization 0500, Object 5415; to be encumbered out of year 2003 budget.

Resolution 02-0814 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement, on file in the office of the city clerk as Public Document No. 02-1216-15, 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, 2003, through December 31, 2003, for the operation of the Duluth senior dining program at a cost of \$7,008, payable at

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

\$584 per month. All funds expended by the city pursuant to this agreement shall be drawn upon Fund 0272, Dept. 031, Org. 6303.

Resolution 02-0844 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement, on file in the office of the city clerk as Public Document No. 02-1216-16, with the Woodland Gardens Association for the nonexclusive use of the recreation room of the Woodland Gardens Apartments from January 1, 2003, through December 31, 2003, for the operation of the Duluth senior dining program.

Resolution 02-0845 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

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. 02-1216-17, 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 02-0850 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are authorized to execute that certain agreement filed as Public Document No. 02-1216-18 with Chelsey Broadcasting Company of Duluth, LLC and Premier Pyrotechnics for the fireworks display at the warmer by the lake celebration on January 1, 2003.

Resolution 02-0863 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 02-0873, by Councilor Hogg, approving DEDA'S general, debt service, capital projects and storefront loan fund budgets for 2003, was introduced for discussion.

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

Steve O'Neil stated that, as with the prior commitments from St. Mary's Duluth Clinic's to contribute to affordable housing in the medical district when they demolished many houses, that St. Luke's Hospital has made a similar commitment to contribute a percentage of a bond issue to affordable housing and further that DEDA would commit more specifically to funding housing.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Kay L. Lewis expressed her concern over the possible loss of small businesses with the expansions to the medical district.

Resolution 02-0873 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the city council of the city of Duluth does hereby approve the general fund budget, the debt service budget, the capital projects fund budget and the storefront loan fund budget of the Duluth economic development authority for the year 2003.

BE IT FURTHER RESOLVED, that the adoption of this budget incorporates a continual commitment by DEDA to foster the development of affordable housing within the medical district impact area.

Resolution 02-0873 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0881, by Councilor Hogg, memorializing the Duluth delegation to the state legislature to secure passage of legislation amending the Laws of Minnesota, 1998, Chapter 389, Article 8, Sections 25-27, to allow the city to continue to impose an additional one-half percent tax on gross receipts from the sale of lodging and on certain sales of food and beverages and to allow revenues from these taxes in excess of the amount needed to service bonds in a principal amount of \$8,000,000 to be used to service bonds financing the Great Lakes Aquarium, was introduced for discussion.

Councilor Hogg moved to table the resolution to give councilors more time to research this issue, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officials are hereby authorized to execute a professional services agreement between the city of Duluth and Carin K. Skoog for energy management and environmental coordination services; said agreement filed as Public Document No. 02-1216-19, for a consideration of \$11,250 payable from the energy management special projects fund, 0210-030-2107-5310.

FURTHER RESOLVED, that the proper city officials are hereby authorized to transfer funds in the sum of \$14,500 from the Gas Fund 0520-500-1915-5720 to said Energy Management Special Projects Fund 0210-030-2107-4738 to pay fees and expenses associated with said agreement.

Resolution 02-0858 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0865, by Councilor Gilbert, authorizing a request for HUD federal community development block grant (CDBG) funds for the 2003 program year as well as approving the reallocation of certain prior CDBG funds and authorizing agreements with appropriate agencies, was introduced for discussion.

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

C. J. Bird spoke in support of the need to be considerate and a "good neighbor" of low income people and their need for housing.

Resolution 02-0865 was adopted as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

BY COUNCILOR GILBERT:

WHEREAS, Regulation 24 CFR Part 91 issued by the U.S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD approved five year consolidated plan for the city of Duluth; and

WHEREAS, city council Resolution No. 02-0864, adopted December 16, 2002, approved the FY 2003 action plan portion of the Duluth consolidated plan for housing and community development FY 2001-2005; 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

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:

**2003 CITY OF DULUTH COMMUNITY
DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM-FUND 262**

ACCOUNT	AMOUNT	PROJECTS
<u>HOUSING PROJECTS</u>		
6601	\$839,400	Duluth property rehabilitation - HRA/NCLT
6602	\$222,200	Property rehabilitation and homeowner services - NHS
6603	\$153,000	Duluth weatherization - AEOA
6604	\$124,000	Recreating urban communities for all - SVCNDA
6605	\$ 24,700	Supportive housing - CCHC
6606	\$ 4,900	Homebuyers club - Salvation Army
<u>PUBLIC FACILITY IMPROVEMENT PROJECTS</u>		
6607	\$151,000	Citywide street improvement
6608	\$ 98,700	Damiano Center masonry restoration
6609	\$ 74,000	Goodwill Industries roof replacement
6610	\$176,800	88th Avenue West street lighting project
6611	\$ 9,500	Sidewalk safety - Morgan Park
6612	\$110,600	Ramsey South street improvements
6613	\$ 59,200	Sidewalk safety - Lincoln Park
6614	\$ 71,100	Accessible parking improvements
<u>ECONOMIC DEVELOPMENT PROJECTS</u>		
6615	\$128,400	North Star Community Development Corporation
6616	\$115,500	Career development and self-employment training - Project SOAR
6617	\$ 44,400	Opportunities cooking - Damiano Center
6618	\$ 49,400	CHUMWorks supportive services - CHUMWorks
6619	\$ 54,300	Women in construction training - WTHC
6620	\$ 22,700	Growing neighborhood businesses - LPBG
6621	\$ -	Acquisition and demolition - CD division

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

PUBLIC SERVICE PROJECTS

6622	\$ 74,900	Hunger project - CHUM
6623	\$ 59,400	Primary health care for low-income people - LSHC
6624	\$ 59,900	Housing access center
6625	\$ 25,500	Youth center - Life House
6626	\$ 9,800	Oshki Odaadiziwini Waaka'igan - AICHO
6627	\$ 30,200	Shelter operations - Safe Haven
6628	\$ 26,800	Family transitional housing - Salvation Army
6629	\$ 10,500	Veterans Outreach North - MACVP-VON
6630	\$ 31,900	Transitional housing - WTHC
6631	\$ 47,400	Lincoln Park youth enrichment program - Boys & Girls Club
6632	\$ 24,000	Harbor View youth services program - Copeland Community Center
6633	\$ 20,600	Collaborative youth program - Grant Community School Collabora- tion
6634	\$ 29,800	Washington activity center - NYS
6635	\$ 29,800	YMCA community services
6636	\$ 37,600	YWCA girls and youth programs
		<u>PLANNING/PROGRAM ADMINISTRATION</u>
6637	\$340,824	Program administration
6638	\$177,800	Neighborhood planning
6639	\$ 24,700	East Hillside corridor study
6640	\$ -	Contingency

\$3,595,224 Total

BE IT FURTHER RESOLVED, that the following are hereby designated as the financial resources for the above program:

SOURCE OF FUNDING

Year 2003	CDBG grant - city	\$3,454,000
Year 1998	CDBG grant - city	\$ 1,008
Year 2000	CDBG grant - city	\$ 33,722
Year 2001	CDBG Grant - city	\$ 106,494

Total \$3,595,224

BE IT FURTHER RESOLVED, that the proper city officials are authorized to make the following transfers in prior years' community development accounts:

	Original	Modified	Revised
1998			
6112 Observation Park	\$ 51,304	-\$ 1,008	\$ 50,296
<u>2000</u>			
6317 Community job partnership	\$190,000	-\$27,345	\$162,655
6307 Hillside streetscape - Phase II & III	\$150,028	-\$ 5,000	\$145,028
6308 Blackmer Field	\$ 32,000	-\$ 1,377	\$ 30,623
<u>2001</u>			
6405 Habitat for Humanity	\$ 24,000	-\$ 981	\$ 23,019

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

6411	13th Street improvements	\$ 43,300	-\$11,850	\$ 31,450
6417	North Star CDC	\$265,930	-\$58,471	\$207,459
6424	Copeland Community Center	\$ 35,900	-\$ 900	\$ 35,000
	Program income	\$ 34,292	\$ 34,292	-0-
Total amount reprogrammed				\$141,224

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized to execute the appropriate agreements with these agencies upon receipt of HUD funds.

Resolution 02-0865 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, Duluth economic development authority's (DEDA) payment of \$250,000 into Minnesota community capital fund's (MCCF) escrow fund, as approved by the DEDA board at its meeting of December 10, 2002, pursuant to DEDA Resolution No. 02D-63, a copy of which is on file in the office of the city clerk as Public Document No. 02-1216-20, is hereby approved.

Resolution 02-0876 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the city council hereby expresses its approval of Duluth economic development authority's (DEDA) intent to issue bonds for the acquisition and construction of the Miller Hill 47 Limited Partnership housing project as approved by the DEDA board at its meeting of December 10, 2002, pursuant to DEDA Resolution No. 02D-61, a copy of which is on file in the office of the city clerk as Public Document No. 02-1216-21.

Resolution 02-0877 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0875, by President Ness, referring the Bayfront master plan back to the administration for further study, was introduced for discussion.

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

Kay L. Lewis, Bob Krumwiede and Peggy Marrin spoke of the aspects of: incorporating a water sports garden; preference for a conservatory at the Pier 9 location and that the process allowed for the public input to be given be supported and looked at for possible incorporation in the revised plan.

Councilor Hogg moved to amend the lettered topics in the last paragraph of the resolution as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

- (a) Add the word "proposed" between the words "the" and "freeway" and add the words "and its viability" after "35";
 - (b) Add the words "and/or the DECC, including possible funding sources" after the word "Downtown";
 - (c) Add the words "or relocation" between the words "expansion" and "of";
 - (e) Replace the word "all" with "appropriate";
- and add the following topics and the end of the resolution:
- "(h) Integration of plans with objectives for the GLA;
 - (i) Work with the Minnesota department of transportation;
 - (j) Pedestrian friendly access on Fifth Avenue West,"

which motion was seconded and unanimously carried.

Resolution 02-0875, as amended, was adopted as follows:

BY PRESIDENT NESS:

RESOLVED, that the Duluth city council hereby refers the Bayfront master plan back to the administration for additional study and consideration.

RESOLVED FURTHER, that the Duluth City Council requests that the administration hold an additional public hearing and meet with the following groups as part of the reconsideration:

Bayfront Visions, the Charter Fishermen, Sweetwater Alliance, the Great Lakes Aquarium board (GLA) and task force and the Junior League.

RESOLVED FURTHER, that in the reconsideration of the Bayfront master plan the administration consider the following topics:

- (a) The proposed freeway exit off I-35 and its viability;
- (b) The skywalk link from Downtown and/or the DECC, including possible funding sources;
- (c) The expansion or relocation of space dedicated to botanical gardens and conservatory;
- (d) The possibility of expansion of the living water garden space;
- (e) Presenting appropriate parking alternatives and on site parking numbers;
- (f) The possibility of removing the visitor center site and replacing it with retail;
- (g) The future of the playfront area;
- (h) Integration of plans with objectives for the GLA;
- (i) Work with the Minnesota department of transportation;
- (j) Pedestrian friendly access on Fifth Avenue West.

Resolution 02-0875, as amended, was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0879, by President Ness, requesting the Charter commission to consider an instant runoff voting system for use in the 2003 mayor's primary election, was introduced for discussion.

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

Rachel Shulstad, Tom Hollenhorst and Will Rhodes supported the resolution, citing the following reasons: this type of voting system insures the highest amount of voter support for the winning candidates that would move on to the general election; it promotes positive, issue based campaigning because candidates would solicit voters' second and third choice votes; with this method, winning candidates that receive a majority, not just a plurality, of the votes

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

are selected; it allows voters to indicate their support, if their first choice does not receive necessary votes, which are sometimes called "wasted votes"; the technology is available; and there are proven examples of it working.

Councilor Stauber expressed concerns that: some announced candidates for mayor may feel the rules are being changed late in the game; doing this for the September primary election will be a serious challenge to educate the public; by choosing only the mayor's race, some might feel that the process is very selective and gives some candidates an advantage; the turnout for a primary election is usually very poor, so few will participate in it; and the secretary of state has to approve this before it can be implemented.

Resolution 02-0879 was adopted as follows:

BY PRESIDENT NESS:

RESOLVED, that the Duluth City Council hereby requests that the Duluth Charter commission consider and recommend a Charter amendment instituting an instant runoff voting system for use at the 2003 mayoral primary election only, said instant runoff voting system being described in Public Document No. 02-1216-25.

Resolution 02-0879 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stenberg, Stewart, Stover and President Ness -- 8

Nays: Councilor Stauber -- 1

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

Resolution 02-0880, by President Ness, outlining the council's position on the comprehensive plan, was introduced for discussion.

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

Tom Hollenhorst, Peggy Marrin and Kay L. Lewis expressed the concerns that: more community support is needed; more information from the planning department is needed; the data from the firm that was fired, is needed; by fast forwarding this, the already bad trust would be disastrous; it will be advantageous to have this as part of the next election year campaign.

Councilors Atkins, Stauber and Stenberg expressed the concerns that: with the second point, in the second "resolved," some neighborhood planning districts, appear to be "stacked" by certain special interests groups; the reference to the 2003 elections, in the first "resolved," may politicize the issue; the resolution sets direction for possibly five new councilors and a new mayor; the whole project should have been scrapped months ago; and the administration should just finish the process and come back to the council with their recommendation.

Resolution 02-0880 was adopted as follows:

BY PRESIDENT NESS:

WHEREAS, Duluth's comprehensive plan is one of the most important initiatives that the city has undertaken that will shape the future of the city for years to come; and

WHEREAS, there was a great deal of excitement for the comprehensive plan when the process first started. However, due to a focus on process at the initial meetings, the subsequent firing of the consultant and an uncertain future of the plan, the interest and excitement in the plan has dissipated; and

WHEREAS, the time line as presented by the administration to finish the plan within the calendar year 2003 is too ambitious and will not be met; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

WHEREAS, the city of Duluth must present a plan that will reengage and reenergize the public; and must present a plan that the public will trust and that can be reasonably completed by the given time line.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby presents an alternative plan and time line to achieve the completion of the comprehensive plan by December 2004.

BE IT FURTHER RESOLVED, that in the year 2003 the comprehensive plan process should include the following tasks:

(a) Develop a values/vision initiative that will survey and measure the values of Duluthians by way of surveys, polls, and neighborhood and citywide discussions; and

(b) Use the 2003 elections to engage a community discussion about a vision for the future of our community and frame the election as a referendum on competing visions; and

(c) Strengthen our neighborhood planning district groups and provide each neighborhood planning district (NPD) with a small budget and encourage them to grow and strengthen their organization by focusing on values and vision discussions that will re-engage the average neighbor in the process; and

(d) Define clearly the process by which a comprehensive plan will ultimately be approved; and

(e) Continue to gather background data and integrating that with the GIS system to have the best possible information for planning in a usable format.

BE IT FURTHER RESOLVED, that in the year 2004 the comprehensive planning process should include the following tasks:

(a) The hiring of a consultant with a one year time line and expectations that the entire work plan will be completed in one calendar year; and

(b) By June 2004, each NPD should present a completed land use plan to the city; and

(c) By October 2004, a completed, fully integrated plan should be presented to the planning commission and city council; and

(d) By the end of December of 2004, the Duluth City Council should take action on the completed plan.

Resolution 03-0880 was adopted upon the following vote:

Yeas: Councilors Bergson, Gilbert, Hogg, Stewart, Stover and President Ness -- 6

Nays: Councilors Atkins, Stauber and Stenberg -- 3

Approved December 16, 2002, pursuant to Section 12 of the Duluth City Charter.

- - -

Resolution 02-0851, by Councilor Stover, awarding contract to Nels Nelson and Sons, Inc., for construction of Maryland Street, in the amount of \$327,748.35, was introduced for discussion.

Councilor Stover moved to table the resolution, as per the request of the administration, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to develop, design and implement an area wide program; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for the Morgan Park wastewater collection system and water distribution system improvements; and

WHEREAS, M.S.A. Professional Service 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 M.S.A. Professional Service to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$636,294, \$355,707 will be payable from the Sewer Construction Bond Fund 0531, Dept./Agency 500, Object 5532 and \$280,587 will be payable from the Water Construction Bond Fund 0511, Dept./Agency 500, Object 5532.

Resolution 02-0862 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

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

WHEREAS, the city of Duluth, in conjunction with the Sweetwater Alliance, desires financial assistance under the coastal management assistance grant program.

NOW, THEREFORE, BE IT RESOLVED:

(a) That the city of Duluth, acting in conjunction with the Sweetwater Alliance hereby approves filing an application for coastal management assistance grant financial assistance; and

(b) That proper city officers of the city of Duluth are hereby authorized and directed to execute and file an application with the Minnesota department of natural resources and to provide all information and documentation required to become eligible for possible funding assistance; and

(c) That the city of Duluth, acting in conjunction with the Sweetwater Alliance, does agree to obligate the funds required to satisfactorily complete the proposed project and become eligible for reimbursement under the terms and conditions of the coastal management assistance grant program.

Resolution 02-0872 was unanimously adopted.

Approved December 16, 2002

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCES TABLED**

BY COUNCILOR ATKINS

02-055 (9575) - AN ORDINANCE PERTAINING TO LAWFUL GAMBLING IN THE CITY OF DULUTH; AMENDING VARIOUS REGULATIONS; AMENDING SECTIONS 8-24, 10A-2, 10A-3, 10A-4, 10A-5, 10A-12, AND 10A-20 AND REPEALING SECTION 10A-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Councilor Hogg moved to amend Section 5 of the ordinance by adding the following paragraph at the end of Section 10A-5:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

“(k) Pull-tabs shall be sold only in business establishments that are licensed to sell intoxicating liquor or 3.2 malt on sale,” which motion was seconded and unanimously carried.

President Ness expressed his opposition to the state and nonprofits being involved in gambling and any expansion to the existing gambling.

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart and Stover -- 8

Nays: President Ness -- 1

- - -

BY COUNCILOR STEWART

02-037 - AN ORDINANCE AMENDING THE REGULATIONS FOR THE DEMOLITION OF HAZARDOUS BUILDINGS; AMENDING SECTION 10-3 AND REPEALING IN ITS ENTIRETY SECTION 10-7 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Councilor Stewart move to remove the ordinance from the agenda, based on the administration’s direction to the building official that unless specific approval is granted by the administrative assistant, all future building demolitions should be carried out pursuant to the state building code, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR STENBERG

02-053 (9576) - AN ORDINANCE AMENDING SECTION 50-56 OF THE DULUTH CITY CODE 1959, AS AMENDED, RELATING TO TWO-FAMILY DWELLINGS IN R-1 ZONES.

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

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

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR HOGG

02-059 (9577) - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2003 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

02-060 (9578) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, SEAWAY PORT AUTHORITY FOR THE YEAR 2003.

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

- - -

BY COUNCILOR HOGG

02-061 (9579) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY FOR THE YEAR 2003.

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

- - -

BY COUNCILOR HOGG

02-062 (9580) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2003.

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

- - -

BY COUNCILOR STEWART

02-063 (9581) - AN ORDINANCE REVISING MASS TRANSIT ZONE ALLOWABLE ACTIVITIES; AMENDING SECTION 45-4.4 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY COUNCILOR STOVER

02-057 (9582) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF EIGHT PERMANENT HIGHWAY EASEMENTS AND ONE TEMPORARY CONSTRUCTION EASEMENT ADJACENT TO JEAN DULUTH ROAD TO ST. LOUIS COUNTY.

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

- - -

BY COUNCILOR STOVER

02-058 (9583) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF TWO PERMANENT HIGHWAY EASEMENTS AND TWO TEMPORARY CONSTRUCTION EASEMENTS ADJACENT TO JEAN DULUTH ROAD TO ST. LOUIS COUNTY.

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

- - -

BY COUNCILOR STOVER

02-064 (9584) - AN ORDINANCE AUTHORIZING FREE CONVEYANCE OF CERTAIN PROPERTY IN WEST DULUTH TO THE NORTHERN COMMUNITIES LAND TRUST.

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

- - -

The meeting was adjourned at 10:57 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9575

BY COUNCILOR ATKINS:

AN ORDINANCE PERTAINING TO LAWFUL GAMBLING IN THE CITY OF DULUTH; AMENDING VARIOUS REGULATIONS; AMENDING SECTIONS 8-24, 10A-2, 10A-3, 10A-4, 10A-5,

10A-12, AND 10A-20 AND REPEALING SECTION 10A-6 OF THE
DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 8-24 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-24. Gambling devices, prostitution, etc., prohibited.

(a) Except as provided below, no licensee shall keep, possess, operate or permit the keeping, possession or operation of any roulette wheel, football boards or other sports score betting boards, slot machine, dice or other gambling device or apparatus designed to facilitate betting on the premises or in any room adjoining the licensed premises controlled by him, permit any gambling therein, or permit the licensed premises or any room in the same or in any adjoining building, directly or indirectly under his control, to be used as a resort for prostitutes or other disorderly persons;

(b) A charitable organization licensed by the state of Minnesota pursuant to Minnesota Statutes, Chapter 349, to conduct lawful gambling may conduct such gambling on premises for which an intoxicating or nonintoxicating liquor license has been issued. The operation of lawful gambling in establishments licensed to sell alcoholic beverages shall be subject to the regulations set forth herein and no licensee or other person shall violate any of said regulations. In addition to criminal penalties, the city council shall, pursuant to Minnesota Statutes, Section 349.213, disapprove of the issuance of any lawful gambling license or premises permit by the Minnesota gambling control board if the issuance of such license or permit would violate these regulations. The regulations are as follows:

(1) No organization, including its auxiliaries and subdivisions, shall operate lawful gambling in more than six establishments in the city which are licensed to sell alcoholic beverages, and only three of the establishments may have pull-tabs sold by jar operators or pull-tab dispensing devices, with the remaining establishments served by pull-tab dispensing devices only;

(2) Only one organization may operate lawful gambling on each premises licensed to sell alcoholic beverages;

(3) No organization shall pay lease payments in excess of \$1,000 per month to any establishment in the city licensed to sell alcoholic beverages and no lease shall be based on a percentage of gross receipts or profits. For the purpose of this Section, any money or other thing of value given by an organization directly or indirectly to the liquor establishment or to any other entity in furtherance of the liquor establishment's interests shall be considered a "lease payment," regardless of the stated purpose of the transaction. No liquor establishment shall accept lease payments in excess of any lawful limit;

(4) The area where pull-tabs are sold or other lawful gambling is operated shall be separate and away from the bar and liquor dispensing service areas of any establishment licensed to sell alcoholic beverages;

(5) No pull-tabs shall be sold by any employee of the establishment licensed to sell alcoholic beverages;

(c) The provisions of regulations (4) and (5) above shall not apply to any situation where the same organization holds both the alcoholic beverage

license and the lawful gambling license;

(d) The provisions of regulation (2) shall not apply to the Duluth Entertainment Convention Center;

(e) Minnesota state lottery tickets authorized by Minnesota Statutes, Chapter 349A, may be sold on premises licensed to sell alcoholic beverages;

(f) Gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized by:

(1) A tribal ordinance in conformity with the Indian Gaming Regulatory Act, Public Law Number 100-497; or

(2) A tribal-state compact authorized under Minnesota Statutes, Section 3.9221.

Section 2. That Section 10A-2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 10A-2. State regulations adopted.

Chapters 7861 and 7862 of Minnesota Rules as they may be amended from time to time are hereby incorporated by reference into this Section, provided that nothing in said rules shall be deemed to amend or change any provision of the Duluth City Code. No person shall violate any provision of Chapters 7861 and 7862 of Minnesota Rules.

Section 3. That Section 10A-3 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 10A-3. Records.

Every organization which is licensed by the Minnesota gambling control board and which has a pull-tab operation shall file with the city treasurer copies of all records and reports required to be filed with the Minnesota gambling control board or department of revenue pursuant to Minnesota Statutes, Chapter 327E or 349, and the rules and regulations promulgated thereunder. The reports and records for each month are due on or before the 25th day of the following month and shall be filed with the organization's city gambling tax return.

Section 4. That Section 10A-4 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 10A-4. Age restrictions.

(a) No person under the age of 18 may conduct or participate in the playing of the game of pull-tabs or any other lawful gambling game authorized by Minnesota Statutes Chapter 349, except a bingo game exempt or excluded from licensing;

(b) No person shall sell pull-tabs to any person under the age of 18;

(c) Proof of age for purchasing pull-tabs may be established only by one of the following:

(1) A valid driver's license or identification card issued by Minnesota, another state or a province of Canada, and including the photograph and date of birth of the licensed person;

(2) A valid military identification card issued by the United States department of defense;

(3) A valid passport issued by the United States; or

(4) In the case of a foreign national, by a valid passport.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

Section 5. That Section 10A-5 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 10A-5. Sale of pull-tabs.

(a) In the playing of pull-tabs, no person shall sell or purchase pull-tabs except on a cash basis. Credit cards, checks and all other forms of consideration shall not be allowed, except that traveler's checks and money orders are acceptable;

(b) A jar operator may refuse to sell pull-tabs to any person if the jar operator believes such sale would be in violation of any law or regulation;

(c) The jar operator shall hand the pull-tabs that are purchased to the player. A player shall never be allowed to reach into the container to select pull-tabs;

(d) Under no circumstances shall a jar operator assist a player in the opening of pull-tabs;

(e) No jar operator may sell or player may buy more than ~~20~~ 50 pull-tabs in any single transaction;

(f) No person shall evade or circumvent or attempt to evade or circumvent any of the provisions of this Article or any state law or regulation by having someone else purchase pull-tabs for such person;

(g) No jar operator or other gambling employee of the organization operating the gambling shall either orally, in writing or otherwise provide any information to any other person about the total number of winners played or the number or denominations of winners left in the jar, except that the jar operator may post in clear legible type the number of winners redeemed;

(h) No single deal of pull-tabs which has been closed out shall thereafter be returned to play;

(i) In licensed liquor establishments, sales of pull-tabs must cease at least 15 minutes before sales of alcoholic beverages are required by law to cease;

(j) Pull-tab dispensing devices as defined in Minnesota Statutes, Chapter 349.12, may be used for the sale of pull-tabs, but subject to the restrictions contained in Section 8-24 of this Code and subject to the provisions of Minnesota Rules Section 7861.0080, subpart 2.N;

(k) Pull-tabs shall be sold only in business establishments that are licensed to sell intoxicating liquor or 3.2 malt on sale.

Section 6. That Section 10A-12 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 10A-12. Gambling managers and jar operators; license required.

(a) No person shall work as a gambling manager or jar operator for any licensed lawful gambling operation in the city unless they have applied for a license from the alcohol, gambling and tobacco commission pursuant to this Article. If a person's license application is denied by the commission, the person shall immediately cease working as a gambling manager or jar operator. A person licensed as a gambling manager may work as a jar operator without further license;

(b) Applicants for a jar operator's license shall, upon making proper application and paying the license fee, receive a temporary license which shall be

valid until the license applicant is acted upon by the alcohol, gambling and tobacco commission;

(c) In cases of death, disability, resignation or dismissal of a gambling manager or other emergencies beyond the control of a lawful gambling licensee, an interim gambling manager, unlicensed by the city, may be appointed under such terms and conditions as are consistent with state law and, provided further, that the interim manager applies for the license required herein for the next regular alcohol, gambling and tobacco commission meeting.

Section 7. That Section 10A-20 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 10A-20. Required lawful purpose expenditures.

Every organization conducting lawful gambling in the city of Duluth shall expend at least 60 percent of its net profits derived from lawful gambling on lawful purposes conducted within or located within the city of Duluth or a city contiguous to the city of Duluth. To facilitate the enforcement of this provision, the city treasurer shall require each organization conducting pull tabs, bingo or tip boards to file a yearly report on a form approved by the treasurer showing all lawful purpose expenditures made by the organization and the percentage of those expenditures made in Duluth or a contiguous city.

Section 8. That Section 10A-6 of the Duluth City Code, 1959, as amended, be repealed in its entirety.

Section 9. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 31, 2003)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart and Stover -- 8

Nays: President Ness -- 1

Passed December 16, 2002
Approved December 16, 2002
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9576

BY COUNCILOR STENBERG:

AN ORDINANCE AMENDING SECTION 50-56 OF THE DULUTH CITY CODE 1959, AS AMENDED, RELATING TO TWO-FAMILY DWELLINGS IN R-1 ZONES.

The city of Duluth does ordain:

Section 1. That Section 50-56 of the Duluth City Code 1959, as amended, be amended to read as follows:

Sec. 50-56. Permitted uses.

The regulations set forth in this Article or set forth elsewhere in this Chapter, when referred to in the Article, are the regulations in the R-1-a one-family residential district.

A building or premises in the R-1-a one-family residential district shall be used only for the following purposes:

- (a) All uses permitted in the S-2 suburban residential district;
- (b) Two-family dwelling, provided that such dwelling is designed to protect and reflect the character of one-family residences. To this intent, in addition to those regulations otherwise set forth in this Code, the following requirements shall be observed:
- (1) Single front entrance. Access to the second dwelling unit shall be either through a common hallway within one front entrance, or by means of a separate entrance at the side or rear of the building;
 - (2) Exterior stairways. No exterior stairways with a total vertical rise greater than five feet shall be permitted;
 - (3) Third floor exits. Any dwelling unit or portion thereof which is located on the third floor shall have two separate means of exit;
 - (4) Roomers. Any two-family dwelling located in a one-family residential district shall be for the exclusive occupancy by two families and no roomers shall be permitted;
 - (5) Roof character. Except for buildings in existence on May 11, 1980, and buildings constructed after May 11, 1980, which have been put to a lawful use other than a two-family dwelling for a minimum of five years, roofs shall have a minimum slope of 2-1/2 feet vertical rise to 12 feet of run;
 - (6) Minimum dwelling size. No two-family dwelling within a structure erected after May 11, 1980, shall contain a total of less than 1,800 square feet of floor area other than garages or utility rooms or basement or attic space not used for living quarters;
 - (7) Dispersion of dwellings. No two-family dwelling shall be constructed and no single family dwelling shall be converted to a two-family dwelling within a distance of 300 feet from any other two-family dwelling or multiple family dwelling located within the same block; provided, that no more than one two-family dwelling or multiple family dwelling shall be permitted within a block containing an area of 120,000 square feet or less;
 - (8) Required drawings. In addition to required plot plans, applications for building permits shall be accompanied by a complete set of four building elevations drawn at a scale of not less than 1/8 inch equals one foot, such elevations to indicate the size and location of all windows and doors, and the type of exterior materials;
 - (9) Limitations on variances. Notwithstanding its power to grant variances as set forth in Section 50-47 of this Code, the board of zoning appeals shall not grant any variance from the requirements for the allowance of two-family dwellings in a one-family residential district except as provided by this Section and only if the findings required by Section 50-47(b) of this Code are made by such board.
 - (A) Such board may grant a variance reducing by not more than ten percent the minimum dimensional requirements for allowance of a two-family dwelling in a one-family residential district;
 - (B) Such board may grant a variance from the roof character requirements set forth in clause (5);
 - (C) Such board may grant a variance from the required front yard setback;

- (c) Residential care facility serving six or fewer persons;
- (d) Day care facility serving 12 or fewer persons and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to serve 14 or fewer children;
- (e) Residential care facility serving seven or more persons, provided a special use permit is secured according to the procedures set forth in Article IV;
- (f) Elderly congregate housing facility containing 12 or fewer habitable units, provided a special use permit is secured according to the procedures set forth in Article IV.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage. (Effective date: January 26, 2003)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed December 16, 2002
Approved December 16, 2002
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9577

BY COUNCILOR HOGG:

AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2003 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

The city of Duluth does ordain:

Section 1. That in accordance with Section 58 of the 1912 Home Rule Charter of the city of Duluth, and all amendments thereof and laws supplementary thereto, and for the fiscal year beginning January 1 and ending December 31, 2003, the city council hereby budgets, determines and states the amount of money required to meet the principal and interest of maturing obligations comprising the outstanding indebtedness of such city; the amounts of money necessary to be provided for each such fund and each department of such city; and estimates the amount of income from all other sources and revenues, exclusive of taxes upon property, together with the probable amount required to be levied and raised by taxation to defray all expenses and obligations of such city during such fiscal year.

That the monies as so budgeted and hereinafter set forth shall be paid upon the presentation of properly verified vouchers bearing thereon the budget distribution for which such expenditures are to be charged in accordance with the detailed classification of accounts and the explanatory information of such as set forth in ordinance in effect governing same, excepting, however, payments for interest and sinking funds, which shall be paid in the manner set forth in Section 53 of the City Charter.

That any monies received by the several city departments as reimbursement for damages or repairs to city property or work done for others and not anticipated in the original budget may be credited to and added to the appropriate budget item upon approval by the administrative assistant or his designee.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

That use of general fund balance that has been designated for a specific purpose in a prior year, must be approved by the city council if used for a purpose other than what has been specified.

That grants which have been approved by the appropriate state or federal agency and accepted by resolution of the city council may be added to the respective budget items upon approval of the finance director.

Section 2. That the finance director be authorized to approve the payments of \$2,643,000 from the gas and steam public utility funds to the general fund for administrative services; comprised of \$2,583,000 or seven percent of the gross revenues of the gas utility fund to the general fund; and \$60,000 from public utility steam fund to the general fund.

Section 3. That the mayor or the administrative assistant or his designees may make transfers from budget item to budget item as may be considered necessary for the proper administration of the city government for the year 2003. 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 2003.

010 - LEGISLATIVE AND EXECUTIVE

1101	City council - total	\$ 166,300
1102	Mayor's office - total	167,300
1103	Administrative assistant - total	183,000
1104	Attorney's office - total	1,282,000
1105	Human rights office - total	159,200
	Total legislative and executive	1,957,800

015 - ADMINISTRATIVE SERVICES

1510	Human resources - total	\$ 673,000
1511	Budget - total	214,200

015 - ADMINISTRATIVE SERVICES

1512	City clerk - total	639,300
1514	Data/word processing - total	1,420,800
1515	Facilities management	4,456,600
1516	Architect's office	231,400
	Total administrative services	\$ 7,635,300

020 - PLANNING AND DEVELOPMENT DEPARTMENT

1202	Urban development - total	\$ 935,700
	Total planning department	\$ 935,700

030 - FINANCE

1322	City assessor's office - total	\$ 726,600
1324	City auditor's office - total	1,336,300
1325	Purchasing office - total	281,000
1327	City treasurer's office - total	383,100
	Total finance and records	\$ 2,727,000

100 - FIRE DEPARTMENT

1501	Fire administration - total	\$ 397,400
1502	Firefighting operations - total	12,352,000
1503	Fire prevention and training - total	469,100
1504	Building inspection	1,656,400
	Total fire department	\$14,874,900

200 - POLICE DEPARTMENT

1610	Police support services - total	\$ 5,883,100
1620	Police uniform division - total	8,063,000
	Total police department	\$13,946,100

300 - LIBRARY

1702	Library services - total	\$ 3,812,000
1703	Buildings and equipment - total	288,700

300 - LIBRARY

Total library \$ 4,100,700

400 - PARKS AND RECREATION

1812 Recreation and senior services - total \$ 1,769,700

1814 Zoo - total 937,000

Total parks and recreation \$ 2,706,700

500 - PUBLIC WORKS

1900 Director's office - total \$ 66,600

1920 Maintenance - total 7,629,400

1925 Bridges - total 651,400

1930 Transportation engineering services - total 1,884,600

Total public works \$10,232,000

700 - TRANSFERS AND OTHER FUNCTIONS

Total transfers and other functions \$ 12,988,800

PUBLIC ENTERPRISE

503 Golf fund - total \$ 1,950,900

PUBLIC UTILITIES

510 Water fund - total \$12,577,400

520 Gas fund - total 42,141,100

530 Sewer fund - total 18,424,700

535 Stormwater fund - total 3,523,900

540 Steam fund - total \$ 3,653,100

Section 8. That the administrative assistant or his designee shall provide the council with a final budget report within three months of the end of the budget year setting forth the original approved and the modified budgets for each line item included in this ordinance and explaining in narrative from 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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, 2003.

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed December 16, 2002
Approved December 16, 2002
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9578

BY COUNCILOR HOGG:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, SEAWAY PORT AUTHORITY FOR THE YEAR 2003.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2003 for Seaway Port authority taxing district's operations is hereby determined to be the sum of \$569,600 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458.15, there will be levied for the purpose of providing the Seaway Port authority special taxing district the sum of \$569,600.

Section 3. That this ordinance shall take effect January 1, 2003.

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed December 16, 2002
Approved December 16, 2002
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9579

BY COUNCILOR HOGG:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY FOR THE YEAR 2003.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2003 for Duluth transit authority special taxing district's operations is hereby determined to be the sum of \$529,400

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following section, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458A.31, Subd.1, there will be levied for transit operations the sum of \$529,400.

Section 3. That this ordinance shall take effect January 1, 2003.

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed December 16, 2002
Approved December 16, 2002
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9580

BY COUNCILOR HOGG:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY
TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2003.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2003 for general operations is hereby determined to be the sum of \$9,679,200 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 \$4,726,600.

Section 3. For the payment of debt, there will be levied for the general obligation debt fund the sum of \$3,987,000.

Section 4. For the payment of debt for the Duluth transit bonds, there will be levied the sum of \$375,600.

Section 5. That pursuant to Laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$590,000.

Section 6. That this ordinance shall take effect January 1, 2003.

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed December 16, 2002
Approved December 16, 2002
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9581

BY COUNCILOR STEWART:

AN ORDINANCE REVISING MASS TRANSIT ZONE ALLOWABLE

ACTIVITIES; AMENDING SECTION 45-4.4 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 45-4.4 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 45-4.4. Mass transit zones.

Upon application delivered to the city clerk from any citizen or provider of public mass transportation, except a taxi service, the city council may, by resolution passed after a public hearing, establish any number of mass transit zones. Each zone shall be located upon property owned or controlled by the city. Each zone shall be specifically described in a resolution of the council, either by words or by graphic display. A mass transit zone shall be finally established when the applicant complies with insurance and indemnity requirements set out below, or reasonable alternatives approved by the council, and the resolution establishing it has been passed by the city council. Each zone shall terminate after 50 years, or when the zone is terminated by resolution of the city council, whichever occurs first. Each zone shall be configured so that the public has safe and convenient access to mass transit and also has convenient passage around the zone for those who are not transit customers.

Once established, the mass transit zone shall be used only for the following purposes:

- (a) Entering or exiting a mass transit vehicle;
- (b) Waiting for the arrival of a mass transit vehicle;
- (c) Conducting business with a mass transit provider;
- (d) Maintaining the property or equipment of the city or a mass transit provider;

(e) Traveling from one point to another, as evidenced by constant movement through the zone to a point or points outside the zone (frequent, repetitive movement within the zone, back and forth, is not allowed).

Persons who are not, at the time present in the zone, customers of a mass transit provider, or persons who are not in the zone for one of the five purposes set out above, shall not be allowed in the mass transit zone.

Each zone shall be large enough to accommodate the business needs of mass transit customers. Each shall be configured so that pedestrians who are not customers can safely travel to, from and around the zone.

The mass transit provider shall mark the boundaries of each zone by a reasonable means that advises the public of the existence of the zone.

The mass transit provider shall have authority to control the use and activities in a mass transit zone to the extent necessary to assure that the public has safe and convenient access to mass transit, except that city agents may enter to enforce the law, maintain the area, provide for public safety, or respond to emergencies.

The mass transit provider shall use each mass transit zone in compliance with all applicable laws and regulations.

The mass transit provider shall execute reasonable agreements to indemnify and defend the city and hold it harmless, up to its limits of liability, for claims against the city caused by the transit provider's fault in using a mass

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

transit zone, and shall insure the city against such claims or losses.

Any person who violates this ordinance may be punished as set out in Duluth City Code, Section 1-7, or its successor.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 26, 2003)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed December 16, 2002
Approved December 16, 2002
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9582

BY COUNCILOR STOVER:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF EIGHT PERMANENT HIGHWAY EASEMENTS AND ONE TEMPORARY CONSTRUCTION EASEMENT ADJACENT TO JEAN DULUTH ROAD TO ST. LOUIS COUNTY.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby grants and conveys eight permanent and one temporary construction easement for highway purposes to St. Louis County, Minnesota in the form of Public Document No. 02-1216-22, over the following described land in St. Louis County, Minnesota:

that part of the Northwest Quarter of the Northwest Quarter (NW 1/4 of NW 1/4) described as follows: beginning at a point 275 feet north of the southwest corner of said Northwest Quarter of the Northwest Quarter (NW 1/4 of NW 1/4) running thence east 1387.60 feet to the east line of said 40, thence north to the northeast corner of said 40 thence west to the northwest corner of said 40 thence south to the point of beginning; Section Thirty-one (31), Township Fifty-One (51) North Range Thirteen (13) West.

Said easements being more particularly described as follows:

A PERMANENT EASEMENT for highway purposes over, under and across that part of the above described property lying westerly of a line which lies 45.00 feet easterly of the following described line: beginning at the northwest corner of Section Thirty-one (31), Township Fifty-One (51) North, Range Thirteen (13) West; thence south 00 degrees 28 minutes 56 seconds east along the west line of Section 31 a distance of 186.30 feet and said line there terminating.

The side lines of the above described easement are prolonged or shortened to terminate on the north line of the above described property.

Together with a PERMANENT EASEMENT for highway purposes, over, under, and across that part of the above described property lying westerly of a line which lies 130.00 feet easterly of the following described line: beginning at the point of termination of the above described permanent easement; thence south 00 degrees 28 minutes 56 seconds east along the west line of Section 31 a distance of 260.00 feet and said line there terminating.

Together with a PERMANENT EASEMENT for highway purposes over,

under, and across that part of the above described property lying westerly of a line which lies 75.00 feet easterly of the following described line: beginning at the point of termination of the above described permanent easement; thence south 00 degrees 28 minutes 56 seconds east along the west line of Section 31 a distance of 100.00 feet to a point hereinafter designated as "Point A"; thence continuing south 00 degrees 28 minutes 56 seconds east a distance of 60.00 feet to a point hereinafter designated as "Point B" and said line there terminating.

Together with a PERMANENT EASEMENT for highway purposes over, under, and across that part of the above described property lying westerly of a line which lies 120.00 feet easterly of the following described line: beginning at the point of termination of the above described permanent easement; thence south 00 degrees 28 minutes 56 seconds east along the west line of Section 31, a distance of 140.00 feet and said line there terminating.

Together with a PERMANENT EASEMENT for highway purposes over, under, and across that part of the above described property lying westerly of a line which lies 100.00 feet easterly of the following described line: beginning at the point of termination of the above described permanent easement; thence south 00 degrees 28 minutes 56 seconds east along the west line of Section 31 a distance of 160.00 feet to a point hereinafter designated as "Point C" and said line there terminating.

Together with a PERMANENT EASEMENT for highway purposes over, under, and across that part of the above described property lying westerly of line which lies 55.00 feet easterly of the following described line: beginning at the point of termination of the above described permanent easement; thence south 00 degrees 28 minutes 56 seconds east along the west line of Section 31 a distance of 40.00 feet to a point hereinafter designated as "Point D" thence continuing south 00 degrees 28 minutes 56 seconds east along the west line of Section 31 a distance of 99.52 feet more or less to the south boundary line of the above described property, and said line there terminating.

The side lines of the last above described easement are prolonged or shortened to terminate on the south line of the above described property.

Together with a PERMANENT EASEMENT for highway purposes over, under, and across that part of the above described property lying southwesterly of the following described line: beginning at a point 75.00 feet north 89 degrees 31 minutes 04 seconds east of "Point A" as designated in the third above described permanent easement; thence southeasterly to a point 120.00 feet north 89 degrees 31 minutes 04 seconds east of "Point B" as designated in the third above described permanent easement, and said line there terminating.

Together with a PERMANENT EASEMENT for highway purposes over, under, and across that part of the above described property lying northwesterly of the following described line: beginning at a point 100.00 feet north 89 degrees 31 minutes 04 seconds east of "Point C" as designated in the fifth above described permanent easement; thence southwesterly to a point 55.00 feet north 89 degrees 31 minutes 04 seconds east of "Point D" as designated in the sixth above described permanent easement, and said line there terminating.

Said permanent easements contain approximately 0.717 acres of existing highway right-of-way and 1.408 acres of additional right-of-way.

Together with a TEMPORARY EASEMENT for highway construction purposes, over under, and across the easterly 25.00 feet of the westerly 80.00 feet of the southerly 44.52 feet of the above described property.

Said temporary construction easement contains approximately 0.026

acres and shall expire December 31, 2004.

And as shown on Exhibit B (Public Document No. 02-1216-22) made a part hereof.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 26, 2003)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed December 16, 2002
Approved December 16, 2002
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9583

BY COUNCILOR STOVER:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF TWO PERMANENT HIGHWAY EASEMENTS AND TWO TEMPORARY CONSTRUCTION EASEMENTS ADJACENT TO JEAN DULUTH ROAD TO ST. LOUIS COUNTY.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby grants and conveys two permanent and two temporary easements for highway purposes to St. Louis County, Minnesota in the form of Public Document No. 02-1216-23, over the following described land in St. Louis County, Minnesota:

Northeast Quarter of Southeast Quarter (NE 1/4 of SE 1/4); Section Twenty-five (25), Township Fifty-One (51) North, Range Fourteen (14) West.

A PERMANENT EASEMENT for highway purposes over, under, and across the easterly 33.00 feet of the first above described property.

Together with a PERMANENT EASEMENT for highway purposes over, under, and across the westerly 22.00 feet of the easterly 55.00 feet of the northerly 100.00 feet of the Southerly 329.69 feet of the above described property.

Said permanent easement contains approximately 1.00 acres of existing highway right of way and 0.05 acres of additional highway right of way.

Together with a TEMPORARY EASEMENT for highway construction purposes over, under, and across the westerly 22.00 feet of the easterly 55.00 feet of the northerly 80.00 feet of the southerly 119.69 feet of the first above described property.

Together with a TEMPORARY EASEMENT for highway construction purposes over, under, and across the westerly 12.00 feet of the easterly 45.00 feet of the northerly 510.00 feet of the southerly 629.69 feet of the first above describe property.

Said temporary easements contain approximately 0.15 acres and shall expire on December 31, 2004.

And as shown on Exhibit B (Public Document No. 02-1216-23) made a part hereof.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 26, 2003)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2002

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed December 16, 2002
Approved December 16, 2002
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9584

BY COUNCILOR STOVER:

AN ORDINANCE AUTHORIZING FREE CONVEYANCE OF CERTAIN PROPERTY IN WEST DULUTH TO THE NORTHERN COMMUNITIES LAND TRUST.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to enter into a development agreement, a copy of which is on file in the office of the city clerk as Public Document No. 02-1216-24, with the Northern Communities Land Trust pursuant to which, in exchange for consideration therein, the city will convey by quit claim deed the below-described property in St. Louis County, Minnesota, to the trust which will develop the property for low and moderate income, a public purpose, and said officials are further authorized to execute all documents necessary with regard to said conveyance:

Lots 1, 2 and 3, Block 23, DODGE'S ADDITION TO DULUTH except the following-described portion of said lots:

beginning at the southwest corner of lot 2, thence easterly along the southerly line of Lots 1 and 2 to the easterly line of Lot 1; thence northerly along the easterly line of lot 1 for a distance of 20 feet to a point; thence deflecting to the left and going to the point of beginning, a distance of 53.35 feet, more or less, and there terminating.

Section 2. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: January 26, 2003)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stenberg, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed December 16, 2002
Approved December 16, 2002
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -